

SELECT BOARD AGENDA
Monday, January 5, 2009 – 6:30 p.m.
Town Room, Town Hall

CALL TO ORDER

Opening Remarks, Announcements, and Agenda Review by Chairperson O'Keeffe

TIME SCHEDULED ITEMS

| | | |
|-------|--|--------------|
| 6:30 | Question Period/Public Comment | Ms. O'Keeffe |
| 6:45 | Pole Hearing-WMECO | Mr. Chudzik |
| 7:00 | 250 th Celebration Update | Ms. O'Keeffe |
| 7:25 | Road Planning Project | Mr. Mooring |
| 7:55 | Town Manager's Dog Recommendation, Continued | Mr. Shaffer |
| 8:40 | Town Manager's Report | Mr. Shaffer |
| | • Recent & Upcoming Activity | |
| | • Amherst College Meeting Update | |
| | • Snow Removal | |
| | • Emergency Homelessness Update | |
| | • Hadley Ambulance Contract | |
| 9:00 | Budget Discussion: FCCC Report | Ms. O'Keeffe |
| (end) | Calendar Preview | Ms. O'Keeffe |

UNTIMED ITEMS

| | |
|--|----------------------|
| Liaison Assignments | Ms. O'Keeffe |
| Chair's Report | Ms. O'Keeffe |
| MMA Annual Meeting | Ms. O'Keeffe |
| Consent Calendar – Special Liquor Licenses (I-R & P Liquors) | Mr. Shaffer |
| Approve Minutes | Ms. O'Keeffe |
| Committee Appointments | Ms. Stein/Mr. Hayden |
| Executive Session (none) | Ms. O'Keeffe |
| Liaison & Representative Reports | Ms. O'Keeffe |

CALENDAR PREVIEW

1/7: FY09 CDBG Public Hearing – 6:30 p.m., Bangs Center 101
1/12 **SB Agenda:** Emergency Preparedness Report; Town Manager Goals & Expectations; Town Manager's Evaluation Response.
1/14: Chamber Breakfast – Courtyard by Marriott
1/15: Economic Development – Tourism panel discussion; 3:00 p.m., Mullins Center
1/16: Town Manager's Budget Due
1/17: 25th MLK Jr. Community Breakfast – 8:30 a.m., ARMS Cafeteria

MOTIONS

CALL TO ORDER

Meeting called to order by Ms. O'Keeffe at _____ p.m.

SELECT BOARD'S ACTION

Pole Hearing – WMECO

Public hearing opened at _____ p.m.

Closed public hearing at _____ p.m.

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to approve, pending permit from the Department of Public Works, the petition from Western Massachusetts Electric Company and Verizon New England, Inc., to install a jointly owned electric pole at 297 South Pleasant Street labeled Pole 128/33-1, T-21-01; said pole to be located on the Westerly side of South Pleasant Street at a point approximately 136' Northerly of Snell Street. Said poles to be erected in accordance with the field plan marked 6A810109.

250th Celebration Update

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to ...

Road Planning Project

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to ...

Town Manager's Dog Recommendation, Continued

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

Town Manager's Report

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

Budget Discussion: FCCC Report

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

Liaison Assignments

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

Chair's Report

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

MMA Annual Meeting

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to...

Approve Minutes

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to approve the minutes of the *December 1, 2008* Select Board meeting.

VOTED unanimously, OR _____ O'Keeffe, _____ Hayden, _____ Stein, _____ Weiss, _____ Brewer to approve the minutes of the *December 8, 2008* Select Board meeting.

Liaison & Representative Reports

VOTED unanimously, OR ____ O'Keeffe, ____ Hayden, ____ Stein, ____ Weiss, ____ Brewer to...

LICENSES AND PERMITS

Special Wine & Malt License – R & P Liquors

VOTED unanimously, OR ____ O'Keeffe, ____ Hayden, ____ Stein, ____ Weiss, ____ Brewer to
approve the Special Wine & Malt Liquor License for R & P Liquors for January 17, 2009 from 3:00
p.m. – 11:00 p.m. at the Red Barn at Hampshire College for a dance.

ADJOURNMENT

VOTED unanimously, OR ____ O'Keeffe, ____ Hayden, ____ Stein, ____ Weiss, ____ Brewer to
adjourn the open meeting at _____ p.m.

Seaman, Katherine

From: Mooring, Guilford
Sent: Monday, December 08, 2008 10:21 PM
To: Seaman, Katherine
Subject: RE: Pole Hearing

Kate,

The DPW has no issues with the request below. The Applicant should be reminded that a street opening permit is required before work can begin.

Guilford

Superintendent of Public Works
Town of Amherst
586 South Pleasant St.
Amherst, MA 01002

Phone: 413-259-3133
Fax: 413-259-2414
mooringg@amherstma.gov

-----Original Message-----

From: Seaman, Katherine
Sent: Thursday, December 04, 2008 2:12 PM
To: Mooring, Guilford
Subject: Pole Hearing

Hi Guilford,

Would you please review the attached request for a pole hearing and issue a recommendation by Friday, December 12, 2008?

Thank you!
~Kate

Kate Seaman
Administrative Assistant
Town Manager/Select Board Office
Town of Amherst
4 Boltwood Avenue
Amherst, MA 01002
Phone: 413-259-3001/413-259-3002
Fax: 413-259-2405

To the Board of Selectmen of the Town of **Amherst**, MA.

Under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof, a public hearing IS NECESSARY on the attached petition. When adopted, please forward to the Town Clerk for recording.

Town Clerk, please forward recorded orders to:

Walter Chudzik, Administration
Western Massachusetts Electric Company
P. O. Box 670
Hadley, MA 01035

NOTE: On questions pertaining to this order, please call Dave Silloway
in Hadley, 413- 585-1755.

REASON FOR PETITION:

South Pleasant Street : Install a Jointly Owned Electric pole at 297 South Pleasant Street. Pole 128/33-1, T-21-01. Said pole to be located on the Westerly side of South Pleasant Street at a point approximately 136' Northerly of Snell Street.
The Amherst Road Superintendant has no objections.

Reason : At the request of Amherst College the pole is needed to provide three phase power for two of their buildings

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

To the Board of Selectmen of the Town of Amherst, Massachusetts

WESTERN MASSACHUSETTS ELECTRIC COMPANY AND
VERIZON NEW ENGLAND, INC.

request permission to locate a line of poles, wires, cables and fixtures, including the necessary sustaining and protecting fixtures to be owned and used in common by your petitioners, along and across the following public way:

South Pleasant Street : Install a Jointly Owned Electric pole at 297 South Pleasant Street. Pole 128/33-1, T-21-01. Said pole to be located on the Westerly side of South Pleasant Street at a point approximately 136' Northerly of Snell Street.
The Amherst Road Superintendant has no objections.

Reason : At the request of Amherst College the pole is needed to provide three phase power for two of their buildings

Wherefore they pray that after due notice and hearing as provided by law, they be granted joint or identical locations for and permission to construct and maintain a line of poles, wires and cables, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the field plan herewith and made a part hereof marked -- **6A810109**.

Also for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioners agree to reserve space for one crossarm at a suitable point on each of said poles for the fire and police telephone signal wires belonging to the municipality and used by it exclusively for municipal purposes.

WESTERN MASSACHUSETTS ELECTRIC COMPANY

By Walter A. Chalk
Company Representative

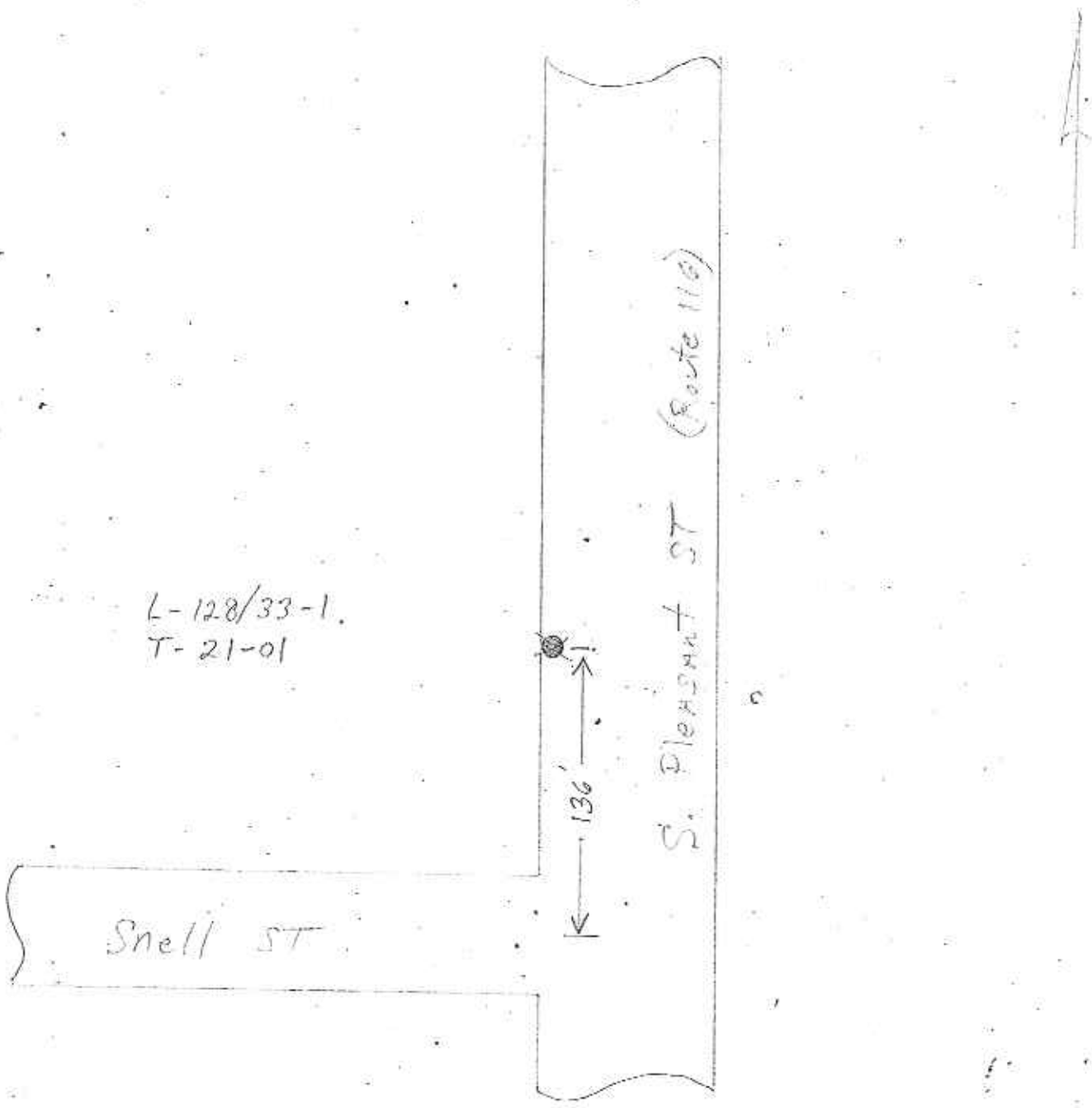
VERIZON NEW ENGLAND, INC.

By G. B. Ben
Manager Right-of-Way

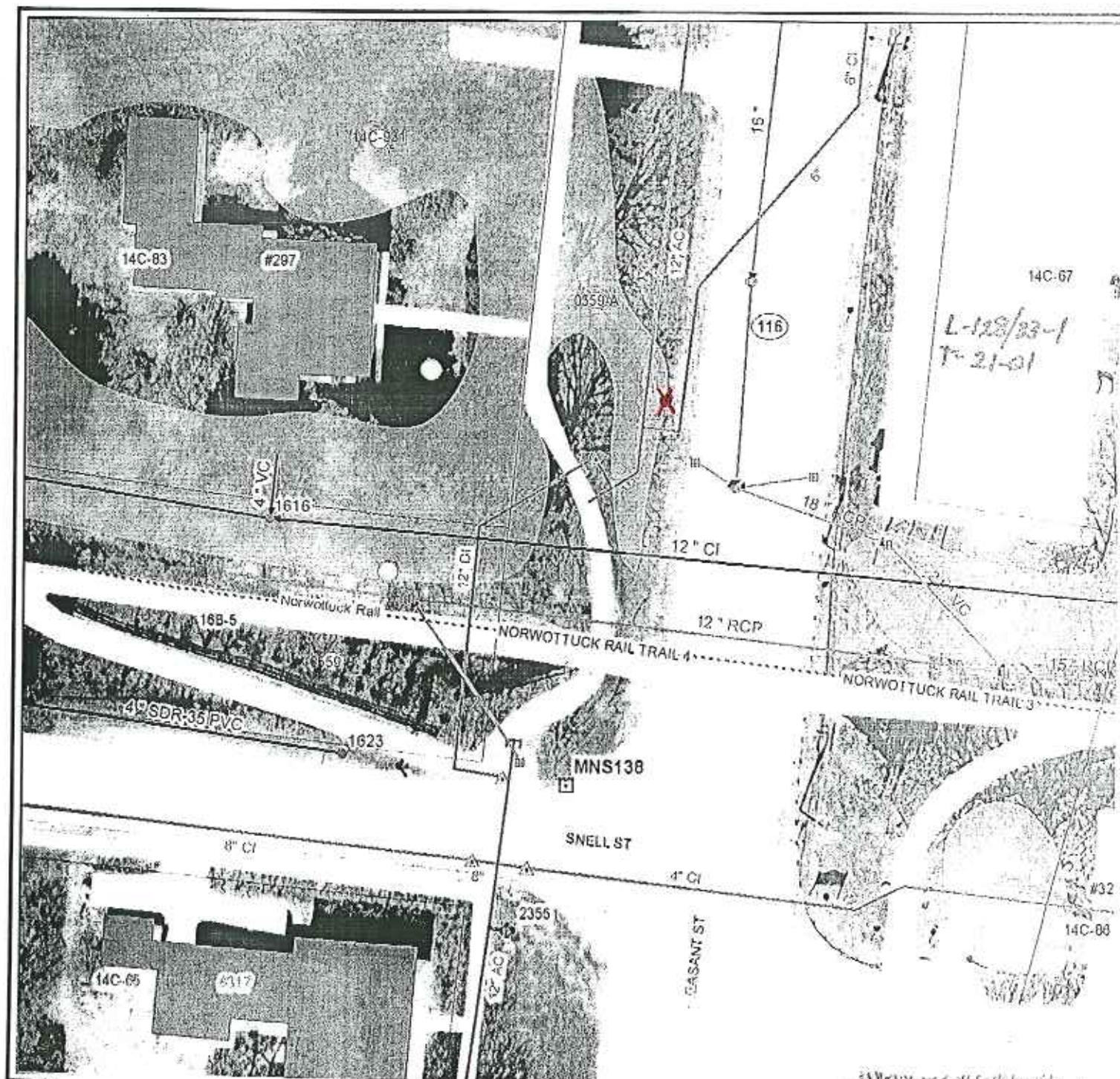
Dated this 21st day of November, 2008

| | |
|---|------------------------------|
| WESTERN MASSACHUSETTS ELECTRIC COMPANY | TOWN <i>Amherst</i> |
| NEW ENGLAND TELEPHONE & TELEGRAPH COMPANY | STREET <i>S. Pleasant St</i> |

OP84 REV. 3-84 Rel: Copy-Perm.



- | LEGEND | | | | | |
|--------|--|--|-----------------------|--|---------|
| | PROPOSED JOINT POLE | | HANDHOLE | | MANHOLE |
| | PROPOSED W.M.E.CO. POLE | | PAD MOUNT TRANSFORMER | | |
| | EXISTING JOINT POLE | | UG. CONDUIT | | |
| | EXISTING W.M.E.CO. POLE | | UG. PRIMARY CABLE | | |
| | EXISTING W.M.E.CO. POLE TO BE MADE JOINT | | UG. SECONDARY CABLE | | |
| | EXISTING FOREIGN POLE TO BE MADE JOINT | | | | |



Town

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

By the Board of Selectmen of the Town of Amherst, Massachusetts.

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED:

that the WESTERN MASSACHUSETTS ELECTRIC COMPANY and VERIZON NEW ENGLAND INC. be and they are hereby granted joint or identical locations for and permission to construct and maintain a line of poles and their respective wires and cables to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way hereinafter referred to, as requested in petition of said Companies dated the 25th day of June, 2008.

All construction under this order shall be in accordance with the following conditions: Poles shall be of sound timber, and reasonably straight, and shall be set substantially at the points indicated upon the plan marked - 6A810109 filed with and made a part of said petition. There may be attached to said poles by said WESTERN MASSACHUSETTS ELECTRIC COMPANY not to exceed 18 wires and 2 cables, and by VERIZON NEW ENGLAND INC. not to exceed 40 wires and 4 cables, and all of said wires and cables shall be placed at a height of not less than 18 feet from the ground at highway crossings, and not less than 12 feet from the ground elsewhere.

The following is the public way along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

South Pleasant Street : Install a Jointly Owned Electric pole at 297 South Pleasant Street. Pole 128/33-1, T-21-01. Said pole to be located on the Westerly side of South Pleasant Street at a point approximately 136' Northerly of Snell Street.
The Amherst Road Superintendant has no objections.

Reason : At the request of Amherst College the pole is needed to provide three phase power for two of their buildings

Also that permission be and thereby is granted to each of said Companies to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each may desire for distributing purposes.



AMHERST *Massachusetts*

OFFICE OF THE SUPERINTENDENT OF PUBLIC WORKS
586 SOUTH PLEASANT STREET
AMHERST, MA 01002
TEL: 413-259-3050 FAX 413-259-2414

December 11, 2008

To: Larry Shaffer, Town Manager

From: Guilford Mooring, Superintendent of Public Works

Subj: Road Repair Recommendations for 2009-2010 Construction Seasons

As requested the DPW, working with the Public Works Comm., has created a list of road repair projects that are considered to be our highest priority for the 2009-2010 construction seasons. The list was developed by examining our Pavement Management Inventory and selecting all road segments that have an overall condition index of 70 or less. Next these roads were examined and a more detailed repair plan was devised. From this information a repair cost was developed.

The repair list generated above is in addition to the annual Chapter 90 funded paving work. Below I have listed the recommended Chapter 90 paving list for 2009 and 2010. I have also broken down the additional work into two groups, Major roadways and Local roadways.

1. 2009 Annual Chapter 90 funded resurfacing project \$500,000. This is broken down as \$ 446,460.52 for road work, \$50,000 to cover contingencies and police details. Next years proposed roads are:
 - a. East Pleasant Street from Triangle to North Pleasant
 - b. North Pleasant Street from Amity to East Pleasant
 - c. University Drive from Snell to entrance to Extending Living Center
 - d. Snell Street from University to Baker
 - e. Spring Street from South Pleasant to Churchill
 - f. Sellen Street from South Pleasant to South Prospect (overlay only)
2. 2010 Annual Chapter 90 funded resurfacing projects \$500,000. The proposed areas are:
 - a. University Drive at Amity Street
 - b. North Pleasant Street at Eastman Lane, intersection change
 - c. Pomcroy Village Center
 - d. Others TBD
3. Additional Major roadway repairs \$ 2,292,046.55
This group includes our major & minor arterials and collectors.

4. Local roadway repairs \$ 2,100,886.29

This group includes our major and minor local streets.

As in the past there are several streets that were left off of this list due to upcoming or potential work. They are:

South Pleasant from Main to Route 9

Amity Street

University Drive from the post office to Amity

North Pleasant Street from Mass. Ave to Eastman Lane

Pine Street

In addition the cost of sidewalk repairs for items 3 & 4 are not included. To include selective repairs to sidewalks along streets that are being paved will add about 20% to the cost of these groups.

Memo from the Public Works Committee to the Amherst Select Board

Re: Urgently-needed street repairs

December 9, 2008

In the past year it has become clear to the members of the Public Works Committee that the roadways in Amherst have reached a critical point of deterioration. For the past six months a subcommittee has worked closely with DPW director Guilford Mooring to take a hard look at the existing situation with respect to roadway condition and generate a set of recommendations based on their work. The full PWC committee, having considered and revised these recommendations, now formally presents them to the Select Board in this memo.

A pressing need

Like most towns in Massachusetts, Amherst pays for most road repairs (crack sealing, overlays, milling/repaving, and reclaiming/repaving) via the annual state Chapter 90 distribution. This has averaged roughly \$500,000 in the past decade. Unfortunately, this amount has proved to be insufficient to keep up with the wear and tear on the 105 miles of town-owned roadways. The predictable result has been a slow but steady deterioration in the roadways to the point, now, that many are hazardous to drivers, pedestrians, or both.

Crumbling roadways degrade the quality of life and negatively impact the town and its residents in many ways:

- Potholes and rough/uneven surfaces damage vehicle frames and tires from direct impact, and vehicle windows from exposed stones and rocks.
- Emergency vehicles are adversely affected by poor road conditions—particularly ambulances which must slow considerably if they are transporting patients with any kind of cervical or spinal fracture.
- Potholes or crumbling roadway edges encourage drivers to swerve over the median line, increasing the risks of collisions.

- Deteriorating road surfaces are a special hazard to bicyclists, both directly through physical impacts and indirectly by forcing riders to swerve into traffic.
- The terrible condition of many roadways reflects very poorly on the town's ability to maintain its infrastructure.
- Because roadways are so visible, their state of repair is obvious to the tens of thousands of visitors who drive here every year and may adversely impact the recruiting efforts of local colleges and universities.
- Letting roadways deteriorate shortens their lifespan because low-cost maintenance activities such as crack sealing are useless once a roadway has degraded significantly.

Scope of the problem

The DPW maintains an inspection program of town roadways and generates an Overall Condition Index number that indicates the "health" of the road, ranging from 100 (perfect health) to 0 --virtually impassable. Roadways with an OCI index below 70 are generally considered to require significant repair, either with an overlay (a short-term, sub-optimal solution) or some degree of milling/reclaiming and resurfacing (preferable). As of July, 2008, 64 street segments met this criterion for repair, which represents roughly 48% of our streets and roads and roughly 50 miles of roadway to repair.

An intelligent solution

At the request of the subcommittee, Mr. Mooring and his staff have created a draft Paving Report which details exactly how much of each of these streets needs attention, and to what level of repair. This kind of detail allows for some significant cost savings, since it takes a "surgical" approach to each street in need of repair. Many streets with low OCI scores have only portions in rough shape and other portions that can be adequately maintained with, for example, crack sealing. This is a very intelligent way to approach our challenge and we commend Mr. Mooring and his staff for doing the extra work involved in preparing the report.

Included in the report are cost estimates, which are based on a price of \$91/ton paving cost (realistic, but, of course, dependent on overall oil prices and other variables). A summary of

these costs is presented here, with roadways grouped by average traffic volume (i.e. "arterials" "collectors" and "local roads").

| | |
|--|--------------------|
| Special projects (FYI '09 Chapter 90): | \$446,460 |
| Major arterials: | \$279,783 |
| Minor arterial: | \$892,198 |
| Major collector: | \$467,397 |
| Minor collector: | \$652,668 |
| Major local: | \$1,414,515 |
| Minor local: | \$686,371 |
| Total: | \$4,839,393 |

This total includes "special projects" which are a set of streets previously approved by the committee for repair and which will be paid for via Chapter 90 funds. Not included in this estimate, however, are repairs to existing sidewalks, creation of new sidewalks, or the creation of bus pull-offs. These are desirable improvements and the director of Public Works estimates that inclusion of sidewalk repairs and bus pull-offs can be expected to add an additional 20%-30% to the repair cost of any particular street. But in the current fiscal climate, the Committee recommends that decisions about these additional features be separated from decisions about funding the primary objective of repairing the worst of the town's roadways. (The Committee has already created prioritized lists of sidewalk repairs and new sidewalk construction, which can be provided to Select Board members at their request.)

The Public Works Committee is not charged with determining *how* this amount of road repair should be funded. The Committee is aware, however, that for matters of bonding, road repairs fall into two classes. Minor repairs such as milling and repaving, overlays, and crack scaling are not considered substantial and, therefore, cannot be funded with bonds of more than a five-year term. Repairs that reclaim all or most of the roadway bed, however, can be paid for with ten-year-term bonds. Mr. Mooring's report identifies the type of repairs each of the most

in-need streets requires, which will help guide the decisions by other town bodies who are considering funding options for these pressing needs.

Recommendation for action

In summary, the Public Works Committee strongly recommends the funding and completion of the roadway repairs detailed in the Paving Report that accompanies this memo. Doing so will allow the town to "catch up" on long-deferred street repairs. With this work completed, we can expect to maintain our roadways in adequate condition for at least the coming decade using only the annual Chapter 90 funds. The plan to affect these repairs is reasonable, it is based on a solid and recent assessment of roadway conditions, and it is as fiscally conservative as possible. By adopting this plan and ensuring its funding, the Town will greatly improve public safety and the overall quality of life in Amherst.

Members of the Public Works Committee

Stephen Braun, 180 Lincoln Avenue

Michael Cann, 1 Spencer Drive

Robert Crowner (chair), 44 Spaulding Street

Donald George, 135 Alpine Drive

Charles Moran, 29 Dana Place

Vincent O'Connor, 179 Summer Street

Paying Report Fall 2008

| FUNCTIONAL CLASSIFICATION | LOCATION | FROM | TO | RECOMMENDED WORK | LENGTH (L ²) OF WORK AREA | WIDTH (L ¹) | FEAR COST | OVERLAY COST | MILL & PAVE COST | CRACK SEAL COST | TOTAL COST PER CLASSIFICATION |
|----------------------------------|----------------------|-------------------|------------------------|---------------------|---------------------------------------|-------------------------|--------------|--------------|------------------|-----------------|-------------------------------|
| MAJOR COLLECTOR | | | | | | | | | | | |
| Major Collector | North East Street | Strong Street | #189 | R&R | 4,705 | 36 | \$363,551.60 | | | \$5,120.00 | |
| Major Collector | North East Street | Strong Street | Map Street | CS | 3,840 | 12 | | | | \$101.33 | |
| Major Collector | North Pleasant (Old) | Triangle Street | East Pleasant Street | CS | 76 | 32 | | | | | |
| Major Collector | Triangle | E. Pleasant | Map Street | O | 2,070 | 32 | | | | | |
| Major Collector | | Map Street | Main Street | O | 630 | 32 | | | | | |
| MAJOR COLLECTOR R&R COST | | | | | | | | | | | |
| MAJOR COLLECTOR OVERLAY COST | | | | | | | | | | | |
| MAJOR COLLECTOR MILL & PAVE COST | | | | | | | | | | | |
| MAJOR COLLECTOR CRACK SEAL COST | | | | | | | | | | | |
| MAJOR COLLECTOR TOTAL COST | | | | | | | | | | | |
| MINOR COLLECTOR | | | | | | | | | | | |
| Minor Collector | Chestnut Street | High Street | East Pleasant Street | CS | 2,380 | 5 | | | \$5,661.11 | \$3,173.33 | |
| Minor Collector | High Street | Harvard Avenue | Main Street | M&P & Pave | 1,000 | | | | | \$2,360.00 | |
| Minor Collector | High Street | Harvard Avenue | Main Street | CS | 1,770 | | | | | | |
| Minor Collector | Larkspur | Widower | #54 | R&R | 1,227 | 24 | \$7,246.22 | | | | |
| Minor Collector | Lincoln Avenue | Family Street | Feasting Street | M&P & Pave | 2,335 | 24 | | | | | |
| Minor Collector | Station Road | Feasting Street | North Hadley Road | R&R (certain areas) | 1,090 | 20 | \$9,454.06 | | | \$36,059.01 | |
| Minor Collector | Station Road | South East St. | Map Street | R&R | 3,406 | 20 | \$90,124.09 | | | \$63,178.00 | |
| Minor Collector | Strong Street | Widower Dr | town line | R&R | 625 | 28 | \$154,253.96 | | | | |
| Minor Collector | Strong Street | East Pleasant St. | before school driveway | O | 1,060 | | | \$15,925.00 | | | \$1,413.33 |
| Minor Collector | Strong Street | School driveway | Hills Road | CS | 1,400 | 28 | | \$35,672.00 | | | \$600.00 |
| Minor Collector | Strong Street | Hills Road | Maplewood | O | 450 | | | | | | |
| Minor Collector | Strong Street | Maplewood | RR crossing | CS | | | | | | | |
| Minor Collector | Strong Street | RR crossing | #373 | O | 1,130 | 28 | | \$28,792.40 | | | \$586.67 |
| Minor Collector | West Hamerov | God's Course | North East Street | CS | 440 | | | | | | \$2,520.00 |
| Minor Collector | Widower | Station Road | Rte #115 | CS | 1,890 | | | | | | |
| Minor Collector | Widower | Station Road | Telberry | R&R | 3,600 | 24 | \$195,648.00 | | | | |
| Minor Collector | Widower | Station Road | Telberry | R&R | 3,600 | 24 | \$456,727.12 | | | | |
| MINOR COLLECTOR R&R COST | | | | | | | | | | | |
| MINOR COLLECTOR OVERLAY COST | | | | | | | | | | | |
| MINOR COLLECTOR MILL & PAVE COST | | | | | | | | | | | |
| MINOR COLLECTOR CRACK SEAL COST | | | | | | | | | | | |
| MINOR COLLECTOR TOTAL COST | | | | | | | | | | | |
| MAJOR LOCAL | | | | | | | | | | | |
| Major Local | Cherry Lane | House #98 | East Pleasant Street | R&R | 1,436 | 24 | \$78,041.81 | | | | |
| Major Local | Cowles Road | Sutherland Road | Northampton Street | R&R | 1,472 | 20 | \$66,665.26 | | | | |
| Major Local | Diana Street | Arroyo Street | Northampton Street | M&P & Pave | 1,600 | 24 | | | | | \$43,477.33 |
| Major Local | Dickerson | College | Main | R&R | 980 | 32 | \$21,012.58 | | | | |
| Major Local | High Point Drive | Flat Hills Road | Town Line | O | 3,580 | 30 | | \$97,108.00 | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 2,500 | 23 | \$130,205.56 | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 1,200 | 30 | \$61,520.00 | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 960 | 20 | \$40,260.00 | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |
| Major Local | High Point Drive | South Pleasant | Pavement End | R&R | 270 | 20 | | | | | |

PAVING REPORT FALL 2008

10 yr work 5 yr work →

| FUNCTIONAL CLASSIFICATION | LOCATION | FROM | TO | RECOMMENDED WORK | LENGTH (LF) | WIDTH (LF) | ROR COST | OVERLAY COST | MILL & PAVE COST | CRACK SEAL COST | TOTAL COST PER CLASSIFICATION |
|--|--------------------------|----------------------------|-----------------------------|------------------|-------------|------------|--------------|--------------|------------------|-----------------|-------------------------------|
| SPECIAL PROJECTS | | | | | | | | | | | |
| Major Collector | East Pleasant Street | Tricycle | North Pleasant | ROR | 830 | 40 | \$372,462.22 | | | | |
| Major Arterial | North Pleasant | Artery | E. Pleasant | ROR | | | \$155,356.74 | | | | |
| Minor Collector | University Drive (South) | Dead end | Route 9 | ROR | | | \$62,272.22 | | | | |
| Minor Collector | University Drive (North) | Point Line north of Rt. 9 | #150 & bus stop | ROR | 900 | 40 | \$61,140.00 | | | | |
| Minor Arterial | Spring St | South Pleasant Street | Churchill Street | ROR | | | \$72,462.22 | | | | |
| Minor Collector | Snell Street | Snell Street | University Dr (South) | ROR | | | \$15,651.11 | | | | |
| Minor Collector | Snell Street | S. Pleasant St | S. Prospect St | O | 380 | 20 | \$439,504.52 | \$6,916.00 | | | |
| SPECIAL PROJECTS ROR COST | | | | | | | | | | | |
| SPECIAL PROJECTS OVERLAY COST | | | | | | | | | | | |
| SPECIAL PROJECTS TOTAL COST | | | | | | | | | | | |
| \$446,460.52 | | | | | | | | | | | |
| MAJOR ARTERIAL | | | | | | | | | | | |
| Major Arterial | Bedford Road | East St | Bedford Road | CS | 320 | 36 | | \$14,742.00 | | | \$426.67 |
| | | East St | 2nd Clutten's driveway | O | 450 | 36 | | | | | |
| | | 2nd Clutten's driveway | End Joint DW with #48 | ROR | 210 | 36 | \$16,168.13 | \$78,078.00 | | | \$1,133.33 |
| | | #48 | DW @ #310 | CS | 3,300 | 26 | | | | | |
| | | DW @ #310 | Garbouse | CS | 850 | 50 | | | | | |
| | | Garbouse | Gar. @ MC Parking Lot | O | 480 | 30 | | \$13,104.00 | | | \$4,732.00 |
| Major Arterial | College Street | South Whitley | Gar. @ MC Parking Lot | O | 200 | 26 | | \$4,732.00 | | | |
| | | INTX Dickinson & East Dr | 1st Crosswalk @ Snell Ave | ROR | 590 | | \$4,121.29 | | | | \$786.67 |
| Major Arterial | College Street | AFTER INTX Dickinson | Crosswalk @ Bedford Ave | CS | 770 | 24 | | \$16,816.80 | | | |
| | | Crosswalk After Snell INTX | South Pleasant St | N/A | | | | | | | |
| Major Arterial | South Pleasant | Snell Street | Hillcrest | CS | 2,000 | | | | | | \$2,666.67 |
| Major Arterial | South Pleasant | Hillcrest | East Hedley Road | CS | 2,300 | | | | | | \$3,066.67 |
| Major Arterial | West Street | East Hedley | Paving line @ #120 | CS | 1,400 | | | | | | \$1,866.67 |
| Major Arterial | West Street | Paving line @ #120 | Strava | Mill & Pave | 600 | 38 | | \$24,752.00 | \$25,814.67 | | |
| | | Peterson | Glenale | O | 800 | 34 | | | | | \$7,733.33 |
| | | Glenale | Mc View | Some CS | 5,800 | | | | | | |
| | | Mc View | Overlay @ HC Farm Driveway | O | 200 | 34 | | \$6,188.00 | | | |
| | | Overlay @ HC Farm Driveway | Overlay @ HC entrance | O | 360 | 30 | | \$12,121.20 | | | |
| | | Mc View | Paving line north of Atkins | CS | 520 | | | \$9,828.00 | | | \$693.33 |
| | | South of Atkins | Courty Corners | O | 1,600 | 24 | | \$34,944.00 | | | |
| MAJOR ARTERIAL ROR COST | | | | | | | | | | | |
| MAJOR ARTERIAL OVERLAY COST | | | | | | | | | | | |
| MAJOR ARTERIAL MILL & PAVE COST | | | | | | | | | | | |
| MAJOR ARTERIAL CRACK SEAL COST | | | | | | | | | | | |
| MAJOR ARTERIAL TOTAL COST | | | | | | | | | | | |
| \$279,783.42 | | | | | | | | | | | |
| MINOR ARTERIAL | | | | | | | | | | | |
| Minor Arterial | East Hedley Road | South Pleasant St | Whipple Street Ln | CS | 3,900 | 36 | \$423,004.00 | | | | \$5,200.00 |
| Minor Arterial | Main Street | South Pleasant St | North East Street | ROR | 5,200 | | \$493,288.89 | | | | |
| Minor Arterial | Market Hill Road | End Snell Street | Flat Hills Road | ROR | 4,670 | 20 | | | | | \$4,053.33 |
| | | East Hills Road | Town Line | CS | 3,040 | | | | | | |
| Minor Arterial | Meadow Street | Rte. 116 | North Pleasant St | ROR | 1,700 | 34 | \$130,884.89 | | | | |
| Minor Arterial | Pelham Road | Hedderstone | Fort River Bridge | ROR | 2,700 | 34 | \$284,567.11 | | | | |
| | | | | ROR | | | \$382,944.69 | | | | |
| MINOR ARTERIAL ROR COST | | | | | | | | | | | |
| MINOR ARTERIAL OVERLAY COST | | | | | | | | | | | |
| MINOR ARTERIAL MILL & PAVE COST | | | | | | | | | | | |
| MINOR ARTERIAL CRACK SEAL COST | | | | | | | | | | | |
| MINOR ARTERIAL TOTAL COST | | | | | | | | | | | |
| \$892,198.22 | | | | | | | | | | | |

PAVING REPORT FALL 2008

| FUNCTIONAL CLASSIFICATION | LOCATION | FROM | TO | RECOMMENDED WORK | LENGTH (L.F.) | WIDTH (L.F.) | R&R COST | OVERLAY COST | MILL & PAVE COST | CRACK SEAL COST | TOTAL COST PER CLASSIFICATION |
|--|----------------|-----------------|--------------------|------------------|---------------|--------------|----------------|--------------|------------------|-----------------|-------------------------------|
| Major Local | Rolling Ridge | End | Teravaddle | R&R | 1,200 | 26 | \$100,088.44 | | | | |
| Major Local | Sand Hill Road | Pine Street | E. Pleasant | R&R | 1,200 | 30 | \$41,520.00 | | | | |
| Major Local | Shurway | Main Street | State Street | R&R | 1,670 | 24 | \$90,789.93 | | | | |
| Major Local | Strutbury Road | Harry Street | College Street | Mill & Pave | 960 | 22 | \$63,404.44 | | \$23,912.53 | | |
| Major Local | South Prospect | Pavement Change | Town Line | R&R | 1,400 | 20 | \$63,404.44 | | | | |
| Major Local | South Whitney | Amity | Northampton Street | O | 2,700 | 18 | \$43,938.22 | \$44,226.00 | | | |
| Major Local | South Whitney | Main | College | R&R | 970 | 20 | \$119,562.67 | \$20,566.00 | | | |
| Major Local | Summit Ave | Amity Street | College | R&R | 2,400 | 22 | \$55,795.91 | | | | |
| Major Local | Summit Ave | North Hadley | Feeding Street | R&R | 1,120 | 22 | \$1,146,904.88 | | | | |
| MAJOR LOCAL, R&R COST | | | | | | | | | | | |
| MAJOR LOCAL, OVERLAY COST | | | | | | | | | | | |
| MAJOR LOCAL, MILL & PAVE COST | | | | | | | | | | | |
| MAJOR LOCAL, CRACK SEAL COST | | | | | | | | | | | |
| MAJOR LOCAL TOTAL COST | | | | | | | | | | | |
| | | | | | | | \$1,702,280.30 | | \$95,921.87 | \$1,400.00 | \$1,414,515.05 |

| | | | | | | | | | | | |
|-------------|-------------|------------------|---------------------------|-----------------------|-------|----|-------------|-------------|--|--|-------------|
| Minor Local | Alpine Road | Healthstone Road | #53 | O | 290 | 26 | \$6,851.40 | | | | \$440.00 |
| Minor Local | | | #58 | CS | 330 | | | \$2,649.92 | | | \$166.67 |
| | | | DW #115 | O | 112 | 26 | | | | | |
| | | | East CW #135 | CS | 125 | | | \$2,859.20 | | | \$336.00 |
| | | | DW #136 | O | 120 | 26 | | | | | |
| | | | DW #176 | CS | 402 | | | \$29,532.00 | | | |
| | | | 20 West DW #176 | R&R | 450 | 28 | | \$8,918.00 | | | |
| | | | Saxe-couch | O | 490 | 20 | | | | | |
| | | | End | R&R | 380 | 28 | \$17,209.78 | | | | |
| | | | Parview Way | R&R | 875 | 26 | \$51,516.11 | | | | |
| | | | Counbua Drive | R&R | 493 | 22 | \$24,660.16 | | | | |
| | | | Lincoln Street | R&R | 1,160 | 24 | \$63,042.13 | | | | |
| | | | Triangle | R&R | 611 | 20 | \$55,071.29 | | | | |
| | | | Overturn | Mill & Pave | 1,216 | | | \$4,914.00 | | | \$13,835.76 |
| | | | South End | O | 220 | 20 | | | | | |
| | | | Fairfield Street | R&R | 450 | 20 | \$20,380.00 | | | | |
| | | | Berkshire Terrace | R&R (end near Harris) | 73 | 22 | \$3,636.70 | | | | |
| | | | North Pleasant | O | 500 | 22 | | \$10,010.00 | | | |
| | | | Wa-offenwer | R&R | 1,100 | 20 | \$49,817.28 | | | | |
| | | | South Prospect | R&R | 620 | 32 | \$44,925.58 | | | | |
| | | | North East Street | R&R | 330 | 34 | \$25,407.07 | | | | |
| | | | Gardner Lane | O | 730 | 26 | | \$17,271.80 | | | |
| | | | Kimpton | CS | 830 | | | | | | |
| | | | Penner Road | O | 120 | 20 | | \$2,184.00 | | | |
| | | | Microdot DW #20 | O patch | 4 | 4 | | \$14.55 | | | |
| | | | CD #35 | O patch | 10 | 10 | | \$91.00 | | | |
| | | | SMH & #33 | O patch | 6 | 6 | | \$32.76 | | | |
| | | | SMH & #30 | O | | | | \$11,921.00 | | | |
| | | | Parking Lot | R&R | 1,200 | 21 | \$57,064.00 | | | | |
| | | | End | O | 470 | 20 | | \$8,594.00 | | | |
| | | | Triangle | R&R | 400 | 18 | \$16,304.00 | | | | |
| | | | Fairfield Street | R&R | 800 | 16 | \$13,104.00 | | | | |
| | | | W-44 | O | 530 | 24 | \$28,803.73 | | | | |
| | | | Monroque Road (north) | R&R | 310 | 15 | \$10,529.67 | | | | |
| | | | Monroque Road (south) | R&R | 240 | 18 | \$9,782.40 | | | | |
| | | | East Street (Old S.E. St) | R&R | | | | \$13,650.00 | | | |
| | | | Old Town Road | R&R | | | | | | | |
| | | | Summit Ave | R&R | | | | | | | |
| | | | Microdot Street | R&R | | | | | | | |
| | | | Valley Lane | R&R | | | | | | | |
| | | | Old de-ssc | R&R | | | | | | | |
| | | | Parview Way | O | | | | | | | |

PAVING REPORT FALL 2008

| FUNCTIONAL CLASSIFICATION | LOCATION | FROM | TO | RECOMMENDED WORK | LENGTH (LF) OF WORK AREA | WIDTH (LF) | PAV COST | OVERLAY COST | MILL & PAVE COST | CRACK SEAL COST | TOTAL COST PER CLASSIFICATION |
|---|----------------|-------------|----------------|------------------|-----------------------------|------------|--------------|--------------|------------------|-----------------|-------------------------------|
| Minor Local | Webster Street | Main Street | Sitting Street | R&R | 390 | 20 | \$17,662.67 | | | | |
| Minor Local | Woodliffe Road | Old Co-roc | Treeberry | R&R | 950 | 20 | \$43,024.44 | | | | |
| MINOR LOCAL R&R COST | | | | | | | \$507,278.51 | | | | |
| MINOR LOCAL OVERLAY COST | | | | | | | | \$103,015.64 | | | |
| MINOR LOCAL MILL & PAVE COST | | | | | | | | | \$13,835.76 | | |
| MINOR LOCAL CRACK SEAL COST | | | | | | | | | | \$2,249.33 | |
| MINOR LOCAL TOTAL COST | | | | | | | | | | | \$686,371.24 |

| PRELIMINARY COST ESTIMATE | |
|---------------------------|-----------------------|
| Special Projects | \$446,460.52 |
| Major Arterial | \$279,783.42 |
| Minor Arterial | \$892,198.22 |
| Major Collector | \$467,396.93 |
| Minor Collector | \$652,667.98 |
| Major Local | \$1,414,515.05 |
| Minor Local | \$686,371.24 |
| TOTAL | \$4,839,393.36 |

Town of



AMHERST

Massachusetts

Office of the Town Manager
Town Hall
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Amherst, MA 01002

Laurence Shaffer, Town Manager
Phone (413) 259-3002
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SELECT BOARD MEETING
December 15, 2008

Old Business

To: Stephanie O'Keeffe, Chair, Amherst Select Board
Members of the Amherst Select Board

From: Laurence Shaffer, Town Manager

Re: Dog Hearing – MGL 140, Section 157; Vicious/Nuisance Dog Statute
Karen Eddings, 84 Blackberry Lane, Amherst

Date: December 12, 2008

On Thursday, December 11, 2008, a hearing was conducted to determine the facts regarding three instances of a dog biting people. The dog, hereinafter referred to as "Leah", is owned by Karen Eddings of 84 Blackberry Lane, Amherst. On July 1, 2006, Leah bit Matthew Musante, 14 years old of 43 Blackberry Lane; on November 18, 2006, Leah bit David Rothenberg, 56 years old of 135 Iduna Lane and on September 12, 2008, Leah bit Addie Connelly, 8 years old of 154 Grantwood Drive, Amherst.

The Select Board, consistent with its authority granted by the statute, assigned the responsibility to conduct the hearing to the Town Manager by motion at its meeting of November 24, 2008. The approved motion required that the hearing be conducted and a recommendation be prepared for submittal to the Select Board prior to December 31, 2008.

The hearing began at 4:04 P.M., in the First Floor Meeting Room at Town Hall. The hearing was concluded at 6:35 P.M. The Town Manager disclosed that one of the victims, Matthew Musante, was the son of Assistant Town Manager/ Finance Director John Musante. The Town Manager recorded attendance (a copy of which is attached), and then explained the purpose and the process for the hearing. Exhibits allowed included the three police incident reports conducted relative to the three subject biting events, a picture of the bite wound received by Addie Connelly and submitted by her mother, Rachel Connelly and a document entitled "Town of Amherst Dog Agreement: December 11, 2008" signed and submitted by Karen Eddings.

Consistent with provisions of MGL 140, Section 157, testimony was taken from thirteen individuals, including the three victims. All the individuals so testifying were sworn in utilizing the oath as follows. *"Do you solemnly swear or affirm that the testimony to be given in this matter will be the truth, the whole truth and nothing but the truth."* The oath was administered to all the witnesses, to include the victims, with the right hand raised.

Each of the victims provided testimony that each was bitten by Leah on public property and each testified that no action had been taken on their individual part to provoke the dog. Matthew Musante testified that he was roller blading on Blackberry Lane on July 1, 2006 when he was bitten on the rear of his left knee. He testified that he did not provoke the dog and had not seen the dog until it was approximately 20 feet from him prior to being bitten. Mr. David Rothenberg testified that he was biking on Sacco Lane when he was attacked and bitten by a dog later identified as Leah. The attack took place on November 20, 2006. Mr. Rothenberg was treated by Ms. Eddings who told him that the "dog has a phobia." Addie Connelly, 8 years old, testified that she was bitten by Leah on September 22, 2008. Ms. Eddings was walking the dog and Addie Connelly approached on a bike and was bitten on the right leg near the ankle. Testimony was submitted by Ms. Eddings that the dog was not muzzled, as ordered by the Animal Control Officer after the Rothenberg bite.

Karen Eddings testified that she has owned Leah for three years. Ms. Eddings testified that the dog exhibited anxiety, stress and nervousness. Ms. Eddings said that she had been nipped by Leah five or six times. Ms. Eddings testified that Carol Hepburn had lectured her about muzzling the dog after the Rothenberg bite. Ms. Eddings testified that she had agreed with Ms. Hepburn to muzzle the dog. Ms. Eddings testified that the dog was not muzzled when Addie Connelly was bitten. Ms. Eddings testified that it was fair and responsible order by Ms. Hepburn to muzzle the dog. Ms. Eddings testified that "I do remember the order to muzzle the dog after the Rothenberg event."

Carol Hepburn, the Town of Amherst Animal Control Officer, testified that after the Musante bite, she told Ms. Eddings that "it would behoove you to muzzle the dog at all times" when outdoors. Ms. Hepburn testified that an order to keep the dog on a leash and muzzle and to keep the dog away from wheeled modes of transportation and "to get some help for the dog." Ms. Hepburn stated that the dog was not a vicious dog and that the dog can be trained.

Elise McMahon, an animal behaviorist, testified that she observed Leah twice and that the dog should be classified as reactive and that the dog was trainable. She also recommended that the dog be muzzled.

I would recommend that the Select Board banish Leah from the Town of Amherst and instruct the Town Manager to direct the Animal Control Officer to find a good home for Leah outside of Amherst. The testimony revealed that Ms. Eddings knew that the dog had a biting problem. The testimony revealed that Ms. Hepburn has recommended and ordered that the dog be muzzled when outside. The testimony revealed that 8 year old Addie Connelly was bitten by Leah after the order by Ms. Hepburn to have Leah muzzled at all times when outside. The dog is a threat to the neighborhood and to the community. Ms. Connelly has not complied with the Animal Control

Officer to muzzle the dog at the times it is outside. However, banishment of the dog has its own difficulties. Is it fair to the receiving municipality? Further, Ms. Eddings has apologized and has promised to live by all the conditions required by the Town Control Officer. Consequently, I would recommend that the Select Board banish the dog and to suspend the banishment until such time as evidence is submitted by the Animal Control Officer that the dog has either bitten another person or has been credibly witnessed as being outside without a muzzle on or on a leash.

Consequently, I would recommend that the Select Board adopt the following motion:

Pursuant to the provisions of MGL 140, Section 157, the town of Amherst, through its Town Manager as authorized by the Select Board, held a hearing on December 11, 2008. Thirteen witnesses, including three complainants, all of which were duly-sworn, testified. Four (4) exhibits incorporated into the decision by reference, were presented. The Select Board hereby orders the dog owned by Karen Eddings of 184 Blackberry Lane, Amherst otherwise known as "Leah" be banished from the Town of Amherst and further directs the Town Manager to instruct the Animal Control Officer to find a good home for Leah outside of Amherst. The order for banishment is suspended until such time as evidence is received by the Select Board that the dog has been outdoors without a muzzle or a leash attached.

SECTION 3. This bylaw shall be enforced by Town of Amherst Police Officers, Parking Enforcement Officers or the Disabilities Access Coordinator. This bylaw may be enforced through the non-criminal disposition method provided in Section 21D of Chapter 40 of the General Laws of the Commonwealth of Massachusetts. For purposes of non-criminal disposition, the enforcing persons shall be those town officials set forth in this section of the bylaw and the specific penalty shall be as provided in Section 2 of this bylaw.

SECTION 4. This bylaw shall be known and referred to as the "Handicapped Parking Bylaw".

ANIMAL WELFARE BYLAW (ATM – April 24, 2002 Art. 7)

Preamble

The animal welfare regulations are herein established for the purpose of promoting the health, safety, and general welfare of the Town of Amherst and its animals. This bylaw contains standards relating to the treatment, confinement and keeping of dogs; and cat regulations. The intent of this bylaw is to enhance the quality of life of citizens and animals in the Town of Amherst, and to protect the general public from damage that may be caused by unregulated animals.

1. Validity

This bylaw is not intended to derogate or limit any powers, rights, or obligations set forth in M.G.L. Chapter 140, but is in addition thereto.

2. License Requirement

Any owner/guardian or keeper of a dog six (6) months of age or older shall cause that dog to be licensed as required by M.G.L. Chapter 140, Section 137, commencing on April 1 of each year.

3. License Fee

The fee for every license shall be set by the Town Clerk in accordance with M.G.L. Chapter 40, Section 22F. The fee for a license for any dog that has been neutered or spayed and for which a certificate from a registered veterinarian has been presented to the Town Clerk, shall be set at no more than one-third (1/3) of the fee set by the Town Clerk in accordance with this section. The appropriate license fee, proof of rabies vaccination and neutering/spaying certificate, if any, must be presented to the Town Clerk at the time of application for a license, and, in addition, a stamped self-addressed envelope must accompany an application for a license by mail.

- A. A penalty of thirty dollars (\$30.00) shall be imposed upon all owners/guardians or keepers of dogs failing to renew licenses before June 1 of each year. This penalty shall take effect on June 1 of each year.
- B. No license fee shall be charged for specially trained service animals, provided one of the following: a doctor's prescription, a doctor's letter on office letterhead, a letter from a service animal training program, or a photo ID of said service animal is shown that such an animal is currently being/has been trained to assist an individual with a disability in

accordance with M.G.L. Chapter 140, Section 139, the Americans with Disabilities Act and M.G.L. Chapter 272, Section 98a. Application shall be made for a license as provided in this bylaw, and license tags issued by the Town must be worn by any such service dog.

- C. In accordance with M.G.L. Chapter 140, Section 138, the owner/guardian or keeper of any dog six months old or older who is a new resident of the Town of Amherst shall register said dog within thirty days of taking up residence, subject to a late fine in accordance with Section 3.A.
- D. No license fee will, or part thereof shall, be refunded because of subsequent death, loss, spaying, neutering, removal from the Town of Amherst, or other disposal of the dog for which the license has been issued, nor shall any fee for a license issued to a new resident be prorated.

4. Dog Regulations

- A. It shall be a violation of this bylaw for which the owner/guardian or keeper shall be liable for a dog to:
 - i. go beyond the confines of the owner/guardian's or keeper's property unless the dog is held firmly on a leash, or is under the control of its owner/guardian or keeper, subject to restrictions of Section 5.A.
 - ii. disturb the peace or quiet or endanger the safety of any person or other animal, by biting, barking, howling, or in any other manner
 - iii. be unrestrained in violation of any order of the Select Board or of the Animal Welfare Officer
 - iv. frighten, kill, maim or otherwise injure another's fowl, livestock or domesticated animal
 - v. chase another's vehicle on any way open to public travel
 - vi. be unlicensed or untagged in violation of state law or of this bylaw.

Violation of this subsection may be subject to a penalty of fifty dollars (\$50.00) for each such violation.

- B. Any person may make a complaint to the Animal Welfare Officer regarding an alleged violation of the preceding subsection. Upon receipt of such complaint, the officer shall investigate, and may issue a written order that the dog be temporarily restrained or muzzled, as the officer deems necessary. Within twenty-one days of the issuance of such a written order, the officer shall file a report requesting a Select Board hearing. On receipt of such report and after examination of the complaint, the Select Board may take actions it deems necessary. The owner/guardian or keeper of a dog subject to such an order of the Select Board may within ten days file an appeal in district court.
- C. The Animal Welfare Officer may impound any dog determined by her/him to be involved in a violation of either of the two preceding subsections hereof. If the owner/guardian or keeper can be ascertained by some identification device on the dog, the Animal Welfare Officer shall immediately advise that person of the dog's impoundment, the procedures for reimbursing the animal holding facility, the right to redeem the dog, and licensing procedures if

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CAROLYN M. MURRAY
R. ERIC SLAGLE

August 27, 2004

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: Handling Dog Complaints

We are often asked to assist in the handling of dog complaints pursuant to G. L. c.140, §157, sometimes referred to as the "vicious" or "nuisance" dog statute. It is important for communities to have a system in place to respond to such complaints within an appropriate time frame, as well as an understanding of the underlying process and evidentiary requirements. Doing so will not only streamline local hearing procedures, but will assist us in defending such decisions in the District Court.

A. The Law and Its Requirements

The statute, which dates back to the late eighteenth century, has been amended and rewritten many times over the past 200 years. Notwithstanding its long history, there are few appellate level cases providing guidance on its interpretation and, indeed, most of those cases have been decided just in the past thirteen years.

Most recently amended in 1995, the statute contains three paragraphs, the first of which is the longest and most important. It states, in pertinent part:

If any person shall make complaint in writing to the selectmen of a town, the officer in charge of the animal commission or person charged with the responsibility of handling dog complaints of a city, or the county commissioners, that any dog owned or harbored within his or their jurisdiction is a nuisance by reason of vicious disposition or excessive barking or other disturbance, or that any such dog by such barking or other disturbance is a source of annoyance to any sick person residing in the vicinity such selectmen, officer in charge of the animal commission or person charged with the responsibility of handling dog complaints or county commissioners shall investigate or cause to be investigated such complaint, including an examination on oath of the complainant, and may make

Memorandum to Municipal Clients

such order concerning the restraint or disposal of such dog as may be deemed necessary [emphasis added].

B. Your Obligations

Identifying the Problem

The statute applies to both cities and towns and allows anyone, including non-residents, to make a written complaint to the responsible board or official. While a simple letter from the complainant may be appropriate, some municipalities have promulgated standard forms for this purpose. A sample form is enclosed for your information. The benefit of a form is that it requires a complainant to articulate the problem within the context of the statute. That is, while a complainant may provide little detail in a letter, he or she would provide statute-specific information in using a form, which will assist the responsible board or officer to begin investigating.

Note that the statute does not limit the field of potential complainants to private parties. It is entirely appropriate, and indeed very common, for animal control officers or other municipal officials to file the initial complaint.

Conducting the "Investigation"

While the statute does not impose a deadline by which the board or official must do so, we recommend that the investigation be undertaken as expeditiously as possible.

In cities, the person in charge of the "animal commission," or if none, the person responsible for handling dog complaints – often the police chief or his/her designee – is obliged to investigate the complaint. In towns, the Board of Selectmen is ultimately responsible for causing an investigation, although we recommend that the Board designate a hearing officer, such as the Town Manager or Administrator, for such matters, as such hearings can be lengthy.

In both cities and towns, the investigation should begin with written notice from the municipality to the dog owner and/or keeper. Such notice should state that a complaint was received and a formal hearing will be held on a certain date and time. The notice should invite the presence and participation of the owner/keeper together with their attorney and such witnesses as they deem necessary. The complainant, of course, should also receive such notice.

At the beginning of the scheduled hearing, the complainant must be sworn in, preferably by a disinterested Notary Public, Justice of the Peace, or judge, if one is present. Otherwise, the investigating board or officer may administer the oath. The witness, with right hand raised, must "solemnly swear or affirm that the testimony to be given in this matter will be the truth, the whole truth, and nothing but the truth." Failure to swear in the complainant will invalidate the entire proceeding. While it is not necessary to swear in any witnesses other than the complainant, we recommend that you do so in order to preserve the integrity of all testimony. It

Memorandum to Municipal Clients

is generally easiest, at the beginning of the hearing, to ask all persons who intend to testify to stand and be sworn in a single group.

The hearing generally begins with the complainant's testimony and that of his/her witnesses (if any) and is followed by the presentation (or testimony, if sworn) of the owner/keeper and his/her witnesses (if any). The board or officer conducting the hearing has wide discretion as to the process, such as time limits on presentations, whether to allow parties to question one another, or whether the parties' legal counsel (if any) will be permitted to file post-hearing briefs. Such ground rules should be announced at the beginning of the hearing and enforced uniformly. A verbatim transcript of the proceedings is not required, although a secretary or assistant should be present to keep minutes.

The Decision

We recommend that the decision of the municipality be made in writing, although the statute does not so require. In a city, the decision of the responsible officer is final. The same is true with the decision of a Board of Selectmen in a town, but if it designated a hearing officer who has recommended a decision, that recommended decision is not final until formally adopted by the Selectmen.

The decision itself should begin with a jurisdictional recitation, such as "Pursuant to the provisions of G. L. c.140, §157, the City/Town held a hearing on _____. X witnesses, including the complainant, who were duly-sworn, testified. X exhibits, which are incorporated into this decision by reference, were presented." The decision should then include a summary of the facts presented, such as the identity of the dog, its owner, the property at issue, and pertinent incidents with specific dates.

Of critical importance, the responsible board or official must make the following specific findings in order for the decision to survive an appeal:

1. That the dog at issue constitutes a "nuisance" to the community, and the dog constitutes a nuisance because:
 - a. It has a vicious disposition; or
 - b. It barks excessively; or
 - c. It creates some other disturbance (explain).

or

2. That the dog, as a result of such barking or other disturbance, causes annoyance to a sick person within the jurisdiction of the responsible board or official.

Memorandum to Municipal Clients

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Memorandum to Municipal Clients

C. The Appeals Process

The first paragraph of G. L. c.140, §157, also provides the process for appealing the decision. It requires the dog owner/keeper to file a civil suit in the District Court serving your community within ten days after the decision. The matter is presented first to a magistrate, who hears the evidence that was presented to the municipal board or officer. The magistrate must affirm the municipal decision unless there is a specific finding that such decision was made "without proper cause or in bad faith," in which case the magistrate reverses the decision. A magistrate could determine that a decision was made without proper cause if, for instance, the complainant was not properly sworn to testify in the original hearing. Bad faith might be found where a decision is intended to punish an owner rather than abate the nuisance caused by the dog.

Either party may appeal the magistrate's ruling to a judge of the District Court, which results in a de novo trial. This means that all of the evidence is presented anew to the judge. Note that unlike the magistrate, the judge is free to render any decision he or she deems appropriate, which may include simply affirming or vacating the municipal decision, but sometimes results in the imposition of one or more conditions concerning the restraint of the dog.

While the statute says that the judge's decision is "final and conclusive" on all parties, the General Laws do provide an avenue for further appeal, albeit a limited one. Pursuant to G. L. c.249, §4, known as the certiorari statute, the Supreme Judicial Court and the Superior Court are vested with jurisdiction to review matters decided by inferior courts to "correct errors in proceedings which are not according to the course of the common law, which proceedings are not otherwise reviewable by motion or by appeal...." This means that the Superior Court review would be limited to the question of whether the District Court judge made errors of law during the trial. It is not another de novo review and no testimony is presented. A final judgment of the Superior Court, of course, would then be subject to an appeal to the Appeals Court and, possibly, the Supreme Judicial Court, but again, the only question on appeal would be one of legal errors.

D. Enforcement

Pursuant to the last paragraph of G. L. c.140, §157:

Any person owning or harboring such dog who shall fail to comply with any order of the selectmen, officer in charge of the animal commission or person charged with the responsibility of handling dog complaints, county commissioners or district court, as the case may be shall be punished by a fine of not more than twenty-five dollars for the first offense and not more than one hundred dollars for a second or subsequent offense, or by imprisonment for not more than thirty days, for the first offense and not more than sixty days for a second or subsequent offense, or both.

Memorandum to Municipal Clients

In order to pursue the penalties under this section, the municipality must file an application for a criminal complaint in the District Court. The district attorney's office will either handle the matter or will appoint Town Counsel or the City Solicitor as a special assistant district attorney, because only the Commonwealth – and not the municipality – may prosecute in such an action.

Alternatively, a municipality may file an enforcement action in the Superior Court. This is helpful where the district attorney's office is either unable or unwilling to prosecute the criminal matter, where fines and/or imprisonment are not important, and where a court order requiring certain actions to be taken is necessary. A District Court judge handling criminal enforcement can only impose fines. He or she cannot compel the dog owner to comply with any conditions that may have been imposed. Conversely, the Superior Court is specifically vested with a power known as "equitable" jurisdiction, see G. L. c.214, §1, which allows a Superior Court judge to enter such orders and, more importantly, to enforce them through contempt proceedings.

Note that pursuant to G. L. c.140, §158, a police officer, constable, or dog officer is specifically authorized to kill a dog that is subject to an order pursuant to G. L. c.140, §157, when such dog is found outside the enclosure of its owner or keeper and not under his or her immediate care. However, we recommend that unless such immediate destruction is necessary for public safety reasons, the dog should be captured and held by the municipality pending further enforcement proceedings as set forth above.

B. Status of the Dog During Appeal or Enforcement Litigation

As described above, where an owner disputes the decision, he or she will either file suit against the municipality appealing its decision, or the city or town will file suit against the owner to compel compliance with the decision (where the appeal period has expired without compliance).

We are often asked to describe the options available to a city or town in such circumstances, from the moment the decision is issued until the final disposition of litigation. Since it is our opinion that a decision is enforceable unless or until a Court of competent jurisdiction otherwise overturns it, an owner is obligated to comply with the decision immediately.

Obviously, where the decision requires the destruction or banishment of the dog, it is not reasonable to expect the owner to forthwith comply with the decision if he or she intends to appeal it. In a case where the municipality has deemed an animal to constitute such a nuisance that destruction or banishment are the only options, we recommend that the owner place the dog in the local animal shelter or, alternatively, in a third-party kennel, at the owner's expense, pending the final outcome of litigation. This way, the nuisance is abated by the removal of the dog from the neighborhood, and the owner suffers no prejudice, as the dog will not be destroyed or banished during the litigation.

KOPELMAN AND PAIGE, P.C.

Memorandum to Municipal Clients

Very often, however, an owner will refuse to place his or her dog in either a shelter or a kennel and, instead, will want to keep it on the premises. In such instances, it may be necessary to obtain a court order, or in some cases, an administrative inspection warrant, to compel the removal of the dog from the owner's property during the appeal.

F. Conclusion

Followed carefully, the provisions of G. L. c.140, §157, generally result in the abatement of nuisances caused by dogs. Seemingly minor defects in the process, however, can invalidate even the most fair and equitable municipal order. Accordingly, use this memorandum to guide you through the statutory framework to arrive at an appropriate order, well-suited to survive a challenge if appealed.

Very truly yours,



Brian E. Glennon, II

BG/rif
Enc.
210212v2/99999/0001

Town of



Amherst Police Department
111 Main Street
Amherst, Massachusetts
01002

Schedule on October 20~~th~~
AMHERST Massachusetts

Charles L. Scherpa
Chief of Police
Business (413) 259-3000
Chief (413) 259-3014
Records (413) 259-3016
Fax (413) 259-2408
police@amherstma.gov

RECEIVED OCT 01 2008


September 30, 2008

TO: Larry Shaffer, Town Manager

FROM: Charles L. Scherpa, Chief of Police

SUBJECT: Leah -Female German Shepherd Mix
Owned by Karen Eddings of 84 Blackberry Lane, Amherst, MA

Subject to the attached incident reports, I request a hearing before the Select Board be scheduled to banish the above referenced dog from the Town of Amherst.


Charles L. Scherpa
Chief of Police

Attachments

cc: Carol A. Hepburn, Animal Welfare Officer
Karen Eddings, 84 Blackberry Lane, Amherst, MA



Amherst Police Department
Incident Report

Page: 1
09/30/2008

Incident #: 08-575-OF
Call #: 08-17265

Date/Time Reported: 09/15/2008 0759
Report Date/Time: 09/22/2008 1501
Status: No Crime Involved
Involves: Juveniles
Reporting Officer: Civilian Hepburn Carol

Signature: _____

INVOLVED

SEX RACE AGE SSN PHONE

EDDINGS, KAREN
84 BLACKBERRY LN
AMHERST MA 01002-1545

F W 55 111-44-9273 413-230-3446

BODY: NOT AVAIL.
DOB: 04/10/1953
LICENSE NUMBER: MA 111449273

COMPLEXION: NOT AVAIL.
PLACE OF BIRTH: NOT AVAIL.
ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

Home Phone (Primary) 413-230-3446

EMPLOYER/SCHOOL: SELF EMPLOYED YOGA INST.

EVENTS(S)

LOCATION TYPE: Residence/Home/Apt./Condo Zone: North Sector
154 GRANTWOOD DR
AMHERST MA 01002

DOG BITE

VICTIM(S)

SEX RACE AGE SSN PHONE

CONNELLY, ADDIE
154 GRANTWOOD DR
AMHERST MA 01002
DOB: 12/01/2000
INJURIES: Apparent Minor Injury
ETHNICITY: Unknown
RESIDENT STATUS: Resident
TAKEN TO: COOLEY DICKINSON HOSPITAL
TAKEN BY: Other

F W 7 NOT AVAIL 413-230-3422

VICTIM CONNECTED TO OFFENSE NUMBER(S): 1

CONTACT INFORMATION:

Home Phone (Primary) 413-230-3422

NARRATIVE FOR CIVILIAN HEPBURN CAROL

Ref: 08-575-OF

Entered: 09/22/2008 @ 1513

Entry ID: 423

Modified: 09/29/2008 @ 1226

Modified ID: 423

On 9/12/08 at approximately 1730 while riding her bike near 84 Blackberry Ln., Addie CONNELLY came across a dog held on a leash. The dog is owned by Karen EDDINGS of 84 Blackberry Ln. CONNELLY related to me ID 423 that EDDINGS had both of her dogs with her on leashes, and when CONNELLY came nearer to them EDDINGS told her to stay away from the dog, because it was a bad dog and did not like bike wheels. CONNELLY then turned away from the dog (still on her bike) and at this point EDDINGS dog came to the end of its leash and bit CONNELLY on right leg above the ankle. At this point CONNELLY rode her bike home and told her Mother (RACHEL) what had happened. RACHEL went to EDDINGS home and confronted her about this incident. After speaking to EDDINGS she drove her daughter to the Emergency room at the Cooley Dickinson Hospital where she was treated for lacerations and a small puncture wound. CONNELLY'S wound required no sutures and was treated and bandaged and she was sent home with info on how to follow-up the treatments to heal it.

EDDINGS version of this incident was in line with CONNELLY'S except that EDDINGS related to me that she had warned CONNELLY several times not to approach the dog while she was holding it on a leash. When CONNELLY went to turn her bike away to leave, she came too close to the dog who was at the end of the leash when the dog bit CONNELLY.

EDDINGS was advised that the dog had two previous encounters with people on bikes and roller blades. At the time of the second bite EDDINGS was warned that she would be fined and could face a possible hearing before the Select Board. The dog is up to date on all its shots. EDDINGS was given a 10 day quarantine notice and fined. EDDINGS must keep her dog on a shorter leash, be muzzled at all times and not walk her dog anywhere in the surrounding neighborhood, or near children on bikes, roller blades or anything with wheels. EDDINGS is trying to find a more suitable home at this time for her dog. Any further incidents will result in the possibility of having the dog euthanized. EDDINGS was also made aware that she would be responsible for any and all medical bills that arise or will occur as a result of this bite.

Rachel CONNELLY (Mother of Addie) was informed of my finding and at this point is satisfied. ok 423

Related to this incident I ID 423 received a voice message on 9/23/08 at approx. 1745 from Rachel CONNELLY (Addie's Mother) who informed me that while she was out walking in the neighborhood, she came across EDDINGS walking her dog. Although she did have it on a leash and had a muzzle on, CONNELLY was concerned because I ID 423 had passed on information to her that I had advised EDDINGS not to walk her dog in the neighborhood. CONNELLY was concerned that even if the dog had a muzzle on, it still could knock down someone on a bike and cause injury that way. I assured CONNELLY that I would contact EDDINGS and get to the bottom of this issue as soon as possible. This case will remain open until such time it can be resolved. ok 423

Related to this incident I ID 423 on 9-28-08 at approx. 1530hrs received yet another phone call from CONNELLY (Mother of Addie). CONNELLY informed me that her Son was riding his bicycle and saw EDDINGS dog outside in the Street by her house. At approx. 1545hrs I ID 423 called EDDINGS to hear her side of this story. EDDINGS related to me that she had taken her dog for a walk on Mt. Hermon and had just gotten home and while taking her dog from the car to go back inside, she spotted CONNELLY'S Daughter (Addie) not far from riding by outside her house. At this point I recalled CONNELLY and relayed this information to her. I could hear her speaking to her Son in the background, asking him if he was sure the dog was in the street and not in his yard, to which I heard him say he wasn't sure. CONNELLY was given the option of meeting with EDDINGS and myself to see if we could have resolve with this issue, or have a hearing before the Chief of Police, and if not this is not amenable that a hearing before the Select Board will be the next step.



Amherst Police Department
Incident Report

Page: 1
09/17/2008

Incident #: 06-751-OF
Call #: 06-20508

Date/Time Reported: 11/20/2006 1307
Report Date/Time: 11/20/2006 1342
Occurred Between: 11/18/2006 1200-11/18/2006 1205
Status: No Crime Involved
Reporting Officer: Patrolman Sabino Epiceno
Approving Officer: Sergeant Jerry Millar

Signature: _____

| INVOLVED | SEX | RACE | AGE | SSN | PHONE |
|--|-----|----------------------------|-----|-------------|--------------|
| EDDINGS, KAREN LEE 84 BLACKBERRY LN AMHERST MA 01002 | F | W | 53 | 111-44-9273 | 413-519-2375 |
| BODY: NOT AVAIL. | | COMPLEXION: NOT AVAIL. | | | |
| DOB: 04/10/1953 | | PLACE OF BIRTH: NOT AVAIL. | | | |
| LICENSE NUMBER: MA 111449273 | | ETHNICITY: NOT HISPANIC | | | |

EVENTS(S)

LOCATION TYPE: Highway/Road/Alley/Street Zone: North Sector
GRANTWOOD/BLACKBERRY
40 GRANTWOOD DR
AMHERST MA 01002

DOG BITE

| VICTIM(S) | SEX | RACE | AGE | SSN | PHONE |
|---|-----|------|-----|-----------|--------------|
| ROTHENBERG, DAVID J 135 IDUNA LN AMHERST MA 01002 DOB: 05/10/1950 INJURIES: Apparent Minor Injury ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 1 | M | W | 56 | NOT AVAIL | 413-253-4747 |

Amherst Police Department

Page: 1

NARRATIVE FOR PATROLMAN SABINO S EPICENO

Ref: 06-751-OF

| | |
|-----------------------------|-----------------|
| Entered: 11/20/2006 @ 1345 | Entry ID: 34 |
| Modified: 11/20/2006 @ 1420 | Modified ID: 44 |
| Approved: 11/20/2006 @ 1420 | Approval ID: 44 |

On 11/20/06 Animal Control Officer Carol Hepburn asked me to start an investigation for a dog bite incident that occurred on 11/18/06 around noontime on Blackberry Ln near Sacco Dr. Ms Hepburn told me that a David Rothenberg has reported that he was bitten by a dog owned by Karen Eddings of 84 Blackberry Ln. The owner of the dog allegedly is a nurse and cleaned out the victims cut and bandaged it. I assume that the bite is in the victims leg as that he was riding his bike when the attack occurred.

Ms Hepburn wanted me to talk to the owner of the dog Ms Eddings and inform her that she needs to quarantine the dog in the house for 10 days. I did make contact with Ms Eddings over the phone and instructed her to keep the dog in the house for 10 days; and that she would have to walk the dog on a leash in her backyard when the dog needs to do his business. Ms Eddings agreed to do this. I also told her that Ms Hepburn will be by to see her next week Monday on the 27th. That she will have with her a quarantine notice for the dog.

I also explain to Ms Eddings that Ms Hepburn will do the follow up invest in this matter. No further police action taken at this time.

I also called the Rothenberg home to get more info about the dog bite. No one answered the phone so a message was left on their voice mail.

Amherst Police Department

Page: 1

SUPPLEMENTAL NARRATIVE FOR ANIMAL WELFARE OFFICER CAROL A HE

Ref: 06-751-OF

Entered: 12/01/2006 @ 1043
Modified: 12/01/2006 @ 1043

Entry ID: 423
Modified ID: 423

ID 423 as a follow up to this report spoke to Karen EDDINGS concerning her dog being involved in this most recent dog bite. EDDINGS dog (a Female German Shepard Mix named Leah) has a history of biting see ID 06-393, EDDINGS dog seems to have a problem with anyone riding by on wheels. Several neighbors have called anonymously to voice there concerns about EDDINGS dog, and it seems that several incidents have gone unreported. I ID 423 advised EDDINGS that her dog would be quarantine and that her dog must have a muzzle on at all times when out of her home while living here in the Town of Amherst.

After a long conversation with EDDINGS concerning the problem her dog has, I ID423 advised her that it would be best to try to find a home someplace where the neighborhood was more quiet and didn't have as many children. EDDINGS has tried to adopt Leah but has found it hard since she has bitten before. Shelter's that will take the dog will not guarantee that she will not be euthanized.. EDDINGS was advised that perhaps this would be the only resort to this issue.

EDDINGS was told that any further incidents involving her dog would result in a fine a hearing before the Select board which at this point I would have no choice but to recommend the dog be euthanized. ok 423



Amherst Police Department
Incident Report

Page: 1
09/17/2008

Incident #: 06-393-OF
Call #: 06-11057

Date/Time Reported: 07/01/2006 1556
Report Date/Time: 07/03/2006 0803
Status: No Crime Involved
Involves: Juveniles
Reporting Officer: Detective Brandon Seymour
Assisting Officer: Civilian Hepburn Carol
Approving Officer: Sergeant Brian Daly

Signature: _____

EVENTS(S)

LOCATION TYPE: Residence/Home/Apt./Condo Zone: North Sector
43 BLACKBERRY LN
AMHERST MA 01002

DOG BITE

VICTIM(S)

| | SEX | RACE | AGE | SSN | PHONE |
|--|-----|------|-----|-----------|--------------|
| MUSANTE, MATTHEW 43 BLACKBERRY LN AMHERST MA 01002 DOB: 03/14/1992 INJURIES: Apparent Minor Injury ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 1 | M | W | 14 | NOT AVAIL | 413-549-4752 |

PERSON(S)

| | PERSON TYPE | SEX | RACE | AGE | SSN | PHONE |
|---|-------------|-----|------|-----|-------------|--------------|
| MUSANTE, MARLENE 43 BLACKBERRY LN AMHERST MA 01002 DOB: NOT AVAIL | PARENT | F | W | 00 | NOT AVAIL | |
| EDDINGS, KAREN L 84 BLACKBERRY LN AMHERST MA 01002 DOB: 04/10/1953 | PARTICIPANT | F | W | 53 | 111-44-9273 | 413-549-4042 |

NARRATIVE FOR PATROLMAN BRANDON M SEYMOUR

Ref: 06-393-OF

Entered: 07/03/2006 @ 0822 Entry ID: 94
Modified: 07/03/2006 @ 0822 Modified ID: 94
Approved: 07/30/2006 @ 2043 Approval ID: 75

On Saturday, July 1, 2006 at 1556 hours I (Officer Brandon Seymour) responded to 43 Blackberry Lane for reported dog bite. While en route, I was advised via dispatch that the reporting party and mother to the victim Marlene Musante reported her son Matthew had been bitten but did not require medical attention.

Upon my arrival, I was met at the door by Matthew Musante and his mother Marlene. Matthew lead me inside stating he had been bitten but was not in pain with his mother confirming he did not require medical attention. Matthew exhibited the bite mark on the back of his left knee to me. I observed redness over an area size of a racquet ball, slight swelling and raising of the skin near the area of the bite, and three to four small puncture wounds in a crescent shape consistent with the bite of a medium sized dog.

Matthew stated that shortly before I was dispatched, he was rolling blading on Blackberry Lane in the vicinity of #48 when a mixed lab, German Shepard in appearance, met him in the street and bit him in the back of left knee causing the injury observed. Mrs. Musante stated the dog, named Leah, resides at #48 and is owned by Karen Eddings. Mrs. Musante added she is on good terms with Mrs. Eddings and was hesitant to bring in police involvement but wanted the incident documented in case of future encounters. By this time, dispatch had confirmed that Leah's necessary vaccines were documented and current. I advised Mrs. Musante that I would locate the dog and speak with the owner to confirm the dog to be properly vaccinated. I further advised that our animal welfare officer may be following up on the incident.

I went to #48 Blackberry Lane approximately three houses away from #43 on the opposite side of the street. Upon exiting my cruiser I was met by Leah in the driveway. Leah was barking as she approached but greeted me affectionately and appeared calm/docile as did a second elderly Golden Lab.

I spoke with Leah's owner Mrs. Eddings who was greatly concerned over the bite as she was already aware of it. Mrs. Eddings stated Leah was a recently rescued dog removed from a neglected household. She stated she had been having problems with Leah barking but biting had never been an issue. Leah was confirmed through her tags and her owner to have all of the necessary shots. Mrs. Eddings stated she was in the process of purchasing a muzzle and line for Leah who would remain indoors until further notice. Mrs. Eddings was advised that our animal welfare officer may follow up on the incident. No further police action necessary at this time.

Submitted on December
11, 2008

Town of Amherst Dog Agreement: December 11, 2008

I swear under oath that Leah is not a vicious threat. I agree that Leah is sensitive/anxious to certain stimuli, such as wheels. She reacts, not attacks.

The following precautions will be taken by me and my family to prevent any more occurrences:

1. I will allow only adults familiar with Leah's sensitivity to walk her;
2. I will be sure Leah always wears a muzzle and is on a short leash with a choke collar;
3. I will not walk Leah during high bike/play areas such as Blackberry Lane and Grantwood Drive, afternoons and weekends.
4. I will take Leah for dog obedience lessons with Elise McMahon, the Animal Behaviorist, in January;
5. I will continue to desensitize Leah to stimuli such as fast moving objects along with the dog trainer;

Since I can't control what comes from behind, I can be more control of Leah by the above.

I am terribly sorry to Matthew, David and Addie. I truly apologize.

Sincerely,



Karen Eddings
84 Blackberry Lane
Amherst, MA 01002
414-519-2375



ADELAIDE MARIE CONNELLY
AGE - 8 YEARS OLD
HEIGHT - 4'0" lbs

9-20-08

DOG HEARING

December 11, 2008

4:03pm

Attendance:

| Name | Address | Phone Number |
|-------------------------|-----------------------------|---------------------|
| Sean Eddings | 84 Blackberry Lane | 461-5515 |
| Barbara Eddings | 116 High Street | 253-1158 |
| Renee Fye | 288 Grantwood Drive | 549-1472 |
| Karen Eddings | 84 Blackberry Lane | 519-2375 |
| Caitlin Eddings | 84 Blackberry Lane | 896-7635 |
| Lauren Eddings | 84 Blackberry Lane | 461-6812 |
| Kevin Eddings | 71 S.Prospect Street #11 | 256-1984 |
| John Piepul | 158 State Street | 237-3431 |
| Elise McMahon | 125 East Chestnut Hill Road | 387-0094 |
| David Rothenberg | 135 Iduna Lane | 253-4747 |
| Barbara Rothenberg | 135 Iduna Lane | 253-4747 |
| Rachel Connelly | 154 Grantwood Drive | 230-3422 |
| Addie Connelly | 154 Grantwood Drive | 230-3422 |
| Catch Connelly | 154 Grantwood Drive | 230-3422 |
| Marlene Musante | 43 Blackberry Lane | 549-4752 |
| Matthew Musante | 43 Blackberry Lane | 549-4752 |
| John Musante | 43 Blackberry Lane | 549-4752 |
| Carol Hepburn | 111 Main Street | 478-7084 |
| -Animal Control Officer | | |
| Charles Scherpa | Amherst Police Department | |
| -Chief of Police | | |

Dog Hearing
December 11, 2008

*** Matthew Musante**

Sworn in: 4:15pm

Yes: 4:25pm

- 4:00- Bite upon the left leg
- Ms. Eddings came out and put cleaning solution
- I think tick dog bite
- 20' I first saw the dog
- The dog was running
- Move forward a little bit

Diagram

- Dog was released and ran off
- May have seen the moving wheels

*** David Rothenberg**

Sworn in: 4:27pm

- Over one block approximately
- I was bicycle riding up Sacco Drive
- I did not see the dog coming
- Dog bit me in the right calf
- Dog bite punctuated the skin - "half dollar size piece of skin off"
- Had never seen the dog before
- I was riding with a friend- "I think that dog bit me"
- Dog bit through the bicycling tights
- The dog was gone after it bit me
- Postman told me it was the Edding's dog
- The dog was tied up at the tree
- You talked with Mrs. Edding's- Mrs. Edding's treated my leg
- She said "the dog was an abused dog and went after people on wheels" "It has a phobia"
- I was concerned that the dog was dangerous- I talked with the dog officer
- I told her to keep the dog on a leash, muzzle

***Addie Connelly**

Sworn in: 4:40pm

- Is eight years old
- Going to the waterfall- at the corner of Blackberry and Grantwood Drive
- I saw the doggie
- The dog bit my leg
- All from our riding
- The owner was walking the dog
- A couple of skin masks
- The dog owner said that "I would be fine"
- It got more red

***Mrs. Edding's**

Sworn In: 5:05pm

- 84 Blackberry Lane
- Leah- 4 ½ years old
- Three years have owned the dog
- The first year I owned the dog- it nipped
- It never broke skin
- She felt threaten ; 5 or 6 nips- no other skin breaks or bleeding
- Anxiety, stress, nervousness, very nervous dog
- Carol Hepburn did visit me- long talks. She suggested tying the dog up and having a muzzle
- "Had an electric fence. Dog broke through electric fence."
- Carol called me and lectured me again
- I agree to muzzle the dog
- Dog was not muzzled for Addie Connelly
- "No. I did not see any blood and I thought everything was OK"
- "I felt bad that it happened"
- "It was a fair responsible order to muzzle the dog?!"
- Ms. Eddings- YES
- "Dog reacts and does not attack"

***Carol Hepburn- Animal Control Officer**

Sworn In: 5:05pm

- Quarantined-highly suggested to Mrs. Eddings
- "I told her to muzzle the dog at all times"
- "Was the muzzle an order?"
- "She should look into training"
- NO

Order after Rothenberg's bite

- keep the dog on a leash and keep it away from bikes and wheeled devices of any kind and to get some help for the dog.
- "The dog was not on a leash when it bit Matthew"

Order after Connelly's bite

- Get a "better" strategy for the dog
- Draft order - Had to leave a muzzle on at all times outside of the house
- Recommend she should get the dog trained
- "The dog is not a viscous dog"
- "Viscous dog - one that deliberately hangs on and rips your skin apart for no reason"
- "Dog can be trained"

*Addie Conelly

Order

- Gave her a fine
- And keep dog in a muzzle while in the Town of Amherst

Eddings

- "I do remember the order to muzzle the dog after Rothcnberg"

Carol Hepburn

- I have worked with the dog's owner
- Dog can be trained
- Should wear a muzzle
- Dog is not a viscous dog
- Has had issues

Elise McMahon

- Animal Behaviorist - Ph.D in Animal Behavior Conversation
- Hound/Collie - very little Shepard
- Observe the dog twice
 - October 9, 2008- 1st evaluation _____
 - Dccember 5, 2008- 2nd evaluation _____
- How often have done such evaluations?
 - Aggressive dogs - 3 evaluations/ 10 Foster Care
 - 100s and 100s of dog evaluations

Evaluate dog and owner

- History of reactively "not atypical" so having a nipping dog is not unusual
- "Poor socialization"

- "Fear aggression"

Town of Amherst Dog Agreement: December 11, 2008

- typed already

- Dog should be classified as "reactive"
- Need to desensitize to the reaction- train for reduction
- Socially outgoing "I think she can be desensitized"
- I would recommend that the dog be muzzled

***Mrs. Connelly**

Sworn In: 5:30pm

- I have pictures of the dog being walked without a leash
- My son was the picture taker
- "I saw Ms. Eddings walking the dog on 9/23/08"
- "It did not have a muzzle" 4:00 and 5:30pm
 - "Walking one day on leash"
- "Leah - dog did not have a muzzle"

***Catch Connelly**

Sworn In: 5:35pm

- Taking a bike ride - it was 11:00am
- Took a turn on Blackberry Lane
- Dog tied to tree- told Mom
- Went home and brought back video
- "I can not remember if the dog had a muzzle or not"
- Has to have a muzzle on at all times
- Can't remember if dog has muzzle

*** Mrs. Eddings**

- I saw them on 9/23/08
- I can't remember if the dog was in a muzzle
- Halloween night- dog in muzzle

***Chief Scherpa- Chief of Police**
Sworn In

- "I have heard the testimony today"
- "I certainly feel the dog should be rehomed"

***John Piepul**
Sworn In

- "I have known the dog since it came home- not a vicious dog"
- "I have seen the dog nip two or three times"
- "Nip at strangers"
- "No breaks of the skin"

***Rothenberg**

- Medical treatment sought
- Sent to plastic surgery- wound was extremely deep – plastic surgeon cut away dead and dying skin
- "Was not a nip, it was a chunk"

***Laura Eddings**
Sworn In

- "Leah has nipped people but we are responsible- muzzle must be on"
- "Leah is making a lot of progress"
- "Mom is very good"
- "Don't mean any harm"

***Renee Fye**
Sworn In

- "I take care of dog when Karen goes away"
- "Watch the dog many times"
- "I have never seen the nip"
- "Twelve times"
- "Muzzle needs to be on the dog"
- first time that " did not muzzle the dog"
- First ____ that Mrs. Eddy's ____ the dog was in Summer of 2008

***Kevin Eddings**

- "Dog sit many times"
- "Dog needs to be on leash"
- "I have been nipped by Leah"
- "1st year several times"
- "I have not seen Leah nip anyone else"
- "Exceedingly responsible person"

Meeting called at 6:35 PM

Meeting Schedules – O'Keefe liaison/rep assignments

Amherst Housing Authority

4th Monday, 3:30 p.m. (less than an hour)

@ Ann Whalen or Jean Elder House

Public Works Committee

1st or 2nd Tuesday, 7:00 p.m. (3 hours)

@ Town Hall or Bangs Center

Conservation Commission

2nd and 4th Wednesdays, 7:00 p.m. (3 hours)

@ Town Hall

Public Transportation and Bicycle Committee

2nd or 3rd Tuesday, 9:00 a.m.

@ Town Hall

Town Commercial Relations Committee

Last Monday, 5:45 p.m.

@ Town Hall

Parking Task Force

Irregular, as needed

@ Town Hall

Budget Coordinating Group

Occasional Mondays at 12:30 p.m.

@ Town Hall

Joint Capital Planning Committee

Weekly late Jan – early Apr, Thursdays at noon

@ Town Hall

Campus Community Coalition

2nd Wednesday 1:00 p.m. (subcommittees vary)

@ Campus Center

Seaman, Katherine

From: Diana Stein [dstein@mtholyoke.edu]
Sent: Wednesday, December 31, 2008 12:08 AM
To: stephanie@okeeffe.com
Cc: Seaman, Katherine

Hi,
Re liaisons meeting times. These are tough and this is only a rough guide from a quick perusal of my date books.

the DRB
The Design Review Board has historically met on two Tuesdays a month. I believe that it used to be the first and third Tuesdays. They changed meeting times a lot this year to accommodate different Board members. schedule that suits everyone. But, for now, the schedule is fluid.

The Shade Tree Committee meets from 4 to 5:30--sometimes on Tues, sometimes on Wed.

The BOH meets once a month--I think they aim for Thursday as there was one on Nov. 20th.

The Zoning Subcommittee seems to meet from 5-6:30 on alternate Wed. The next meeting is Jan 7 so that would make it the 1st and 3rd Wed of the month.

The Ag Com seems to meet from 7 to 9 on a Tues but seems to be the second Tues some months and not others.

Thats all I can think of right now. I hope this is somewhat useful.
Diana

Seaman, Katherine

From: Diana Stein [dstein@mtholyoke.edu]
Sent: Wednesday, December 31, 2008 11:16 AM
To: stephanie@okeeffe.com; Seaman, Katherine

Hi,

I forgot CPAC which meets Jan. 8th, a Thursday, at 7pm.

They met the same day as the BOH last time also but they have fewer meetings in the fall and more as we enter the pre Town Meeting season is my impression.

Diana



FEE: \$100

TOWN OF AMHERST
SPECIAL LICENSE
WINE AND MALT APPLICATION

Dec 19 08

To the Licensing Authorities:

Date: 12/17/08

The undersigned hereby applies for a Special License – Wine and Malt in accordance with the provisions of the Statutes relating thereto:

NAME: Nathan Day
COMPANY: Pop Tavern
ADDRESS: 505 West St Amherst, MA 01002
CONTACT: Nathan Day
TELEPHONE: 413-687-7149 cell or 413-253-9742 store
DAY(S) APPLIED FOR: 01/17/09
PREMISES TO BE LICENSED: Reel Bar

HOURS OF OPERATION: 3-11pm
TYPE OF EVENT: OBAMA Campaign - Dance

RESTRICTIONS ON SPECIAL LICENSE – WINE AND MALT

1. All beverages shall be served in paper cups and consumed from the same. No bottles or cans can be served.
2. The provisions of the Town's Noise By-Law will be administered in the event there are complaints of excessive noise in connection with the event.
3. Advertising of the event is to be restricted to the Town of Amherst and the Five College Community. No advertising is to take place in any public school.

LIABILITY DISCLAIMER FOR SPECIAL LICENSE – WINE AND MALT

By exercising the privileges of this license in serving persons with alcoholic beverages, the licensee is potentially exposed to significant liability for injuries and damages to persons served or to others who are injured or damaged by the persons served. Your acceptance and exercise of this license will be deemed to be acknowledgement that you are aware of this potential liability. You are encouraged to discuss the risks associated with exercising your privileges of the license and the precautions appropriate to avoid injuries, damage and liability to others with your legal advisor. The Town of Amherst, and the Select Board as Local Licensing Authority, shall not be liable to the licensee or others if injury or damage shall result from the exercise of the license.

Signature of Applicant: Nathan Day

An appointment must be made to meet with the Police Chief (256-4011) before submitting this application to the Select Board's Office. After approval, return application to the Select Board's Office, 4 Boltwood Avenue, Amherst, MA 01002

Approved: [Signature]

Chief of Police

Date

12/17/08

Date Select Board Approved/Denied: _____

License #: _____

Remarks: _____

MINUTES

CALL TO ORDER

Meeting called to order by Mr. Weiss at 6:30 p.m.

ATTENDANCE

Present: Gerry Weiss, Diana Stein, Alisa Brewer (6:35,) Aaron Hayden, Stephanie O'Keeffe

Absent: (none)

Present: Town Manager Larry Shaffer, Assistant Town Manager/Finance Director John Musante

Members of the public: Mary Lou Ferro, Tony Maroulis, Bob Saul, Martha Hanner, Stan Gawle

OPENING REMARKS/ANNOUNCEMENTS

Mr. Weiss expressed praise and appreciation for the DPW's work on the downtown sidewalks. He noted that some people have concerns about that spending, and noted that the money for the project was set aside long ago. Mr. Shaffer said that labor and materials for the project are charged to the capital budget instead of the general fund where possible.

Ms. O'Keeffe asked that discussion of upcoming meeting dates be added to the agenda, time permitting.

PUBLIC COMMENT

There was no public comment.

SELECT BOARD'S ACTION

Liaison Report

Ms. O'Keeffe reported that the Amherst Housing Authority had recently celebrated the opening of the new apartments on Main Street, and noted that many organizations, committees and individuals had made that project possible. She said that another topic from a recent AHA meeting was delay in renovations of some of the AHA housing units due to inability to secure timely building permits. She said such delays resulted in change orders with the contractors and prolonged vacancies, which affect the AHA's annual vacancy audits.

Action: No action taken.

Select Board Election of Officers - Chair

Ms. Brewer nominated Ms. O'Keeffe for Chair. Ms. O'Keeffe praised Mr. Weiss' work as Chair. Mr. Weiss spoke of his enjoyment of the position and the responsibilities it entails. He said that not being Chair would allow him to spend more time with liaison assignments and other Board work. He expressed praise and appreciation for the experience of working with the Town Manager, and for the assistance of Kate Scaman and Judith Arcamo. He said the position had also taken its toll on aspects of his work and life, and said there were reasons why stepping down at this time made sense. Ms. Brewer praised Mr. Weiss' work as Chair, and gave him a coffee mug and chocolate bars. Mr. Shaffer expressed his appreciation and gratitude for working with Mr. Weiss.

VOTED unanimously to elect Ms. O'Keeffe as Chair.

Select Board Election of Officers - Clerk

Ms. O'Keeffe noted that the only official duty of the Clerk is to sign certain documents. She said that she had also been doing the minutes as Clerk, but that the body could decide if it wanted that duty to continue with the

position. General agreement was that it should continue. Ms. Brewer nominated Mr. Hayden for Clerk, and noted that he had done minutes for the Comprehensive Planning Committee.

VOTED unanimously to elect Mr. Hayden as Clerk.

Taxi license approval (6:50 p.m.) - Mary Ferro, the applicant, appeared before the Board. There was a brief discussion on Mary's local knowledge of Amherst.

Decision: Gerry Weiss moved to approve the license, Stephanie O'Keeffe 2nd. Unanimously accepted

Human Rights Day Proclamation (6:55 p.m.) - Gerry Weiss presented proclamation.

Decision: Diana Stein moved to accept the proclamation to make Dec 10 Amherst Human Rights Day, Aaron Hayden seconded. Unanimously accepted.

Holiday Parking (7:00 p.m.) - Tony Maroulis (President of the Amherst Area Chamber of Commerce) presented requests:

- December 5, 2008 for the Merry Maple celebration, Main Street parking lot and Boltwood Ave between 12 and 6:30 and the north side of the Spring Street parking lot from 2 to 6:30

Decision: Alisa Brewer moved to accept the street closings for Merry Maples, Diana Stein 2nd.

Unanimously accepted.

- December 6th, for Greeting Card Day, to waive all parking fees in town, at meters and "pay and display lots".

Decision: Alisa Brewer moved to accept the waivers, Diana Stein 2nd. Unanimously accepted.

- December 13 through Dec 24 to waive all parking fees in the "Pay & Display" lots only.

Decision: Alisa Brewer moved to accept the waiver, Gerry Weiss 2nd. Accepted unanimously.

7:10 Evaluation of Town Manager (7:10 p.m.) - Gerry Weiss presented packet with evaluation materials.

Discussion: Last year only composited data of the Select Board's evaluations was released to the public. This year the Select Board decided to release their complete evaluation. Also this year anonymous staff evaluations will be placed into the Town Manager's personnel file, (anonymous except for those that were signed). This seemed an improvement over last year's process. There will be further discussions between the Town Manager and the Select Board regarding the evaluations including the Town Manager's response on future goals and strategies. The Select Board will review the material for the December 15, 2008 meeting when the evaluation is on the meeting agenda. (Written comments for the Friday packet due December 11, 2008.)

Discussion: On making the documents available to the public, what should be put on the website? Each separate evaluation has important information and the website is a handy place to get it.

Too much on the website may make it hard to see everything but the composited numerical data gives a good access. All the primary documents are at Town Hall

The original plan from the beginning of this year's process was to put everything up on the web.

Decision: Alisa Brewer moved that all the information be put into one document that gets mounted on website as "Town Manager Evaluation" Diana Stein 2nd. Unanimously accepted.

Town Manager's Report:

Special thanks to Nancy Pagano for the Thanksgiving celebration at the Bangs Center. In the end 75 Thanksgiving dinners were sent out to seniors and elderly.

Town Hall hours during the holidays: There has been a press release and announcements of the Town Hall schedule during the holiday weeks - Town hall will be open for extended hours on December 22, 2008 and December 23, 2008 from 8:00 a.m. - 6:30 p.m., to help citizens get their year end business done in this shortened week. Town Hall will be closed December 24, 25 & 26, 2008 which will allow some savings in utilities costs. Town Hall will be open regular hours December 29, 30 & 31, 2008 and closed January 1 & 2, 2008.

Special Thanks to our friends at Hadley Garden Center for a significant donation of trees and shrubs. Half are slated to go to Kendrick Park and rest for the Public Way as public shade trees.

Discussion: All pools in Town be closed pending the pending mandated safety upgrade that must be in place December 19, 2008. Right now the ARMS pool will not be able to open since the upgrade very expensive and will take some time to put in place. (Ironically LSSE had just completed an agreement to use pool for season.)

Discussion: Town Council's has written an opinion that a recent case in Land Court, against Newton, will not affect the CPA funding of Plum Brook. Town council's opinion forwarded to departments in Town and will be put up on the CPA Committee's web page. The Town Manager is developing a system to identify CPA fund requests that are not allowed by statute to help avoid costly mistakes later.

Committee Appointment:

Nate Malloy (Planning Department Liaison to Historical Commission) announced the Historical Commission unanimously Nominated Jim Wald to be its representative to DRB.

Decision: Diana Stein Moved to appoint Jim Wald to fill the Historical Commission's seat on the Design Review Board, Aaron Hayden 2nd, unanimously accepted.

FCCC Report (7:40 p.m.) - Gerry Weiss recapped process: late Apr 08 SB created FCCC to do the "impossible" task of understanding the whole Town budget and its likely future and to get public opinion on service cuts and taxes. Today Chapter 1 of report "Summary Recommendation and Findings" is complete and on the Town website.

Discussion: The Select Board appreciates that the report is from the FCC Committee as a whole. The FCCC was inspired by the understanding that its report would play an important role in shaping the Town budget considerations in the near future.

Bob Saul and Martha Hanner introduced the 10 members of the committee (most of whom were present) and recapped Chapter 1 "Summary Recommendation and Findings":

Discussion: What is the "Core Budget", the FCCC report offers no details but there are many suggestions in the appendices and quotes from individuals as to what is at the core of running the Town.

Discussion: Specific recommendations are not given in the report just findings.

Distribution of the final draft of the report should happen by next week as the final copy editing is underway.

Questions and comments can be e-mailed to the FCCC until December 31, 2008 otherwise the FCCC charge is complete and they are not meeting again before then.

Budget Discussion or SB Recommendations (8:40 p.m.)

John Musante was present to answer questions.

Discussion: Today interest rates are very low, Amherst has few bonds outstanding, and construction costs are low so it may be a good time to get ahead of capital projects. Bonding done on a project by project basis and some projects are good candidates; a new fire station (or two), renovations to schools (especially Fort River and Wildwood), renovating the trolley barn that houses DPW all of which are not in the current capital plan. We should have schematic 10 year plan for major (bondable) projects to meet funding as it becomes available.

Discussion: Debt exclusion override could be used to pay off bond debt. Since bonds are for larger projects we may choose to bundle many small projects together for any debt exclusion override we consider, projects like the backlog of road improvements. In any event it is important that we consider carefully any borrowing to be sure it is paid for by the people whom it benefits.

Next meetings:

Discussion: Select Board meets on Mondays so we can reasonably plan a whole quarter year:

Decision: Aaron Hayden moved the following list of dates, Gerry Weiss 2nd The calendar leading up to Spring Town Meeting was unanimously accepted;

December 8 & 15, 2008

January 5, 12 & 21, (Wed to consider budget) 26, 2009

February 2, 9 & 23, 2009

March 2, 9, 16 & 23, 2009

April 6, 13, 20 & 27, 2009

The Select Board also has posted meetings this Wednesday at the Planning Board's forum on the Master Plan and Saturday at the Four Towns School Budget meeting.

Adjourned 9:45 p.m.

Respectfully submitted, *Aaron Hayden*

Select Board Meeting

December 8, 2008

Town Room

Town Hall

DRAFT

MINUTES

Call to order:

Meeting called to order by Ms O'Keefe at 6:30 p.m.

Attendance:

Present: Alisa Brewer, Aaron Hayden, Stephanie O'Keefe, Diana Stein,

Absent: Gerry Weiss

Present: Larry Shaffer (Town Manager)

Others presenting: Larry Tebo (President Fire Fighters local), Bill Elsassor, David Burgess (Town Assessor), Connie Kruger (Chair Board of Assessors), Donald Wise (Board of Assessors), John Musante (Town Finance Director)

Acceptance of minutes

Decision: To accept the minutes for the meeting of December 1st as amended.

Diana Stein moved, Alisa Brewer 2nd. Accepted unanimously with 1 absent

Announcements and remarks

A UMass landscape architecture class will be showing their work on a design for Kendrik Park this Thursday, Dec 11, in Town Room at 7:00

Public Comment

Larry Tebo introduced himself as the new President of the Fire Fighters union. He apologized for having to leave the meeting early, AFD is making arrangements to honor Homer Cowles, once a member of the Select Board, who recently passed away.

Bill Elsassor – Recently returned from Waikiki where two “august” hotels were closed among other businesses and where public infrastructure was generally running down. Mr Elsassor is worried that abandoning the LJI might be lead to similar ruin. He believes the entrepreneurial spirit in Amherst is dampened by the LJI being left to look derelict.

6:45 Public Hearing on Property Tax Classification; David Burgess, Connie Kruger and Don Wise presented –

This hearing is required each year for Select Board to decide on tax rates, exemptions and whether to split tax rates;

Open Space

20% Exemption of owner occupied

Small commercial exemption

Different tax rate for business property and residential (split tax rate)

The Board of Assessors had three public informational hearings to describe the process for annual reassessment of properties. The hearings were fairly well attended. Many at the hearings were concerned about the increase in valuations.

Valuations are based on the value of properties sold in 2007, before the financial crisis really hit.

Discussion:

Amherst has never had residential exemption or small commercial exemption or split rates

Split tax rate shifts tax burden from residential to business properties and has been rejected every year since it discourages business growth in Town. Business properties are such a small part of the tax base even a very large increase in business tax rate would have a small effect on the residential tax rate: For example, a 50% increase in the business property tax rate would yield a 5% decrease in the residential property rate.

The Residential Exemption never doesn't target decreases in tax rate to those who would most benefit from it. It also shifts the tax burden to rental properties that would be passed on to renters. (The Residential Exemption can work in communities with expensive second homes to move tax burden to those homes.)

The Small Commercial Exemption shifts the tax burden from small business to large business. This exemption doesn't provide much benefit to small business since small businesses generally doesn't own their property.

The Open Space Exemption tends to shift a greater burden on to residential properties.

Because of the general increase in valuation of properties the tax rate is likely to fall from \$16.02 per thousand to \$15.82. The final rate will be published when it is established by the Board of Assessors and approved by the State.

The Board of Assessors recommends the Select Board take no exemptions and so keep the tax rate the same for all types of properties. The net effect of increased valuation and a decreased tax rate by property is;

2349 properties will have a decrease in taxes

885 properties will have between a 0 and 2.5% increase in their taxes

1076 properties will have between 2.5 and 5% increase in their taxes

1206 properties will have between a 5 and 10% increase in their taxes

1232 properties will have a greater than 10% increase in their taxes (many of these properties are newly built)

Most nearby communities have a single tax rate, Greenfield has a split rate that has not helped their tax picture.

Appeals on assessments can be made until Feb 3.

7:11 The Chair closed the hearing.

Decision: To adopt a minimum residential factor of one, equal tax rate for all classes of properties, for FY 2009, and that no open space discount be granted.

Diana Stein Moved, Alisa Brewer 2nd. Accepted unanimously with 1 absent

Decision: To NOT adopt the Residential Exemption for FY 2009.

Diana Stein Moved, Alisa Brewer 2nd. Accepted unanimously with 1 absent

Decision: To NOT adopt the Small Commercial Exemption for FY 2009

Diana Stein Moved, Alisa Brewer 2nd. Accepted unanimously with 1 absent

Annual License renewals; Larry Shaffer presented –

Discussion: 184 licenses under SB purview, victualler, alcohol, live entertainment and inn-holders. Kate Seaman has collected all the applications and the Police chief has vetted all these requests before they come to us. The license will not be issued if there is an outstanding issue.

Decision: To renew the attached list of licenses, for January 1, 2008 to December 31, 2008, subject to the conditions that are attached to the licenses being renewed.

Diana Stein Moved, Aaron Hayden 2nd. Accepted unanimously with 1 absent

Other licenses;

Decision: To approve the Live Entertainment License for Michael's Billiards, 20 Belchertown Road, Manager Annie Chiu Lo. (*Note to SB – this establishment surrendered their Live Entertainment license last year and would like to add it back this year.*)

Alisa Brewer Moved, Aaron Hayden 2nd. Accepted unanimously with 1 absent

Decision: To approve the Special Wine & Malt Liquor License for the University of Massachusetts for December 12, 2008 from 5:30 p.m. – 10:00 p.m. at Memorial Hall for a reception.

Alisa Brewer Moved, Diana Stein 2nd. 3 in favor, Aaron Hayden opposed 1 with absent

Decision: To approve amend the vote taken at the December 1, 2008 Select Board Meeting to approve the Special Wine & Malt Liquor License for the Hitchcock Center for March 27, 2009 at the Lewis Sebring Commons, Valentine Hall, at Amherst College for a fundraiser. (*Note to SB – the applicant made an error on the original application, and applied for March 29, 2009 instead of March 27, 2009-there is no backup for this item*)

Alisa Brewer Moved, Aaron Hayden 2nd . Accepted unanimously with 1 absent.

Decision: To approve the Special Wine and Malt Liquor License for Amherst College for February 21st, 2009 at Valentine Hall for a casino style fundraiser.

Alisa Brewer Moved, Aaron Hayden 2nd . Accepted unanimously with 1 absent.

Select Board assignment to Personnel Board; Ms O'Keefe noted that there is some concern among employees that the grievance process is not accessible and so may not be working adequately. The grievance process seems impractical.

The Select Board, as appointing body to the Personnel Board, can bring the concern on the effectiveness of the grievance process to the Personnel Board. The Personnel Board meets next on Dec 15th at 9:15 when the Town Manager is away and so can't raise the concern.

Discussion: From handbook it is clear what is "grievable" and that there are 5 steps to the process which can't be cut short. Some don't know how to go about filing a grievance and maybe employees should have somewhere to go for help in this filing.

We are looking for ideas on how to improve situation.

It is not the responsibility of The Select Board to change the process but it is our responsibility to raise the concern and understand its merit. We must be careful not to over-step our responsibility and authority.

Because the concern has been brought to the Select Board the grievance process should be reviewed. The Personnel Board conducts regular open meetings with employees and issues with the grievance process has not been brought up in any of those meetings. Going around the formal routes of communication is not acceptable, but SB has responsibility to make suggestions to the Personnel Board and we need to react appropriately.

Diana Stein was hopeful she could attend the Personnel Board's next meeting to get a better understanding of the issues for the Select Board.

Town Manager's Report:

Upcoming and recent activity (a new feature to help Select Board know what's up in the Town Manager's office):

Last week Mr Shaffer:

Worked with 250th committee on activities and broadcasting its events

Met with the Budget Coordinating Committee to discuss the Facilitation of Community Choices Committee's final report

Met with partners for a regional dispatch, Belchertown, Hadley and UMass to put together \$125k grant request for designing a regional dispatch system.

Met with department heads to review their individual budgets.

Talked with the Executive Director of the Amherst Cinema to discuss parking expansion.

Met with the Parking Task force to outline policy for dealing with meter feeders. The Chamber of Commerce is a member of the task force, Tony Maroulis the President of the Chamber was at the meeting, and wants to help business stop employees from feeding meters. Posters, website postings and other material will be distributed to businesses with the final policy on meter feeding.

Until Mid Feb meter feeders will be given informational tickets describing the parking permit system and with locations of non-meter parking. The intent is to get as much information to people as possible.

The policy should aid downtown businesses by providing more parking for their patrons.

Other partners on the task force are the Amherst Redevelopment Authority and the Public Transportation and Bicycle Committee.

Discussion: The parking fee waivers for Holiday parking, wasn't well marked – there were no bags over meters and the parking ticket machines did not have signs on them on Friday. There were no bags on the meters Saturday either.

Mr Shaffer will meet in Springfield with PVTA next week.

There will be a public reading of the Declaration of Human Rights on Wednesday at 4:00 at Town Hall and Saturday in Town Room to celebrate 60th anniversary of the original declaration.

Mr Shaffer will convene a dog bite hearing this Thursday

This Friday there will be a holiday party for the Town employees and a Town Gown gathering at the University Chancellor's house.

A special thanks to the Donahue Institute at UMass for a successful appeal to the census in Amherst which increased our count to 35,962 in 2007, a 4.9% increase. The increase will help some formula funding in the future and Mr. Shaffer is asking about retroactive funding (though he wasn't very hopeful in receiving it.). Until the Donahue Institute did their work there was only anecdotal evidence that we had been undercounted. It is another benefit of having the University in our town.

The Town received a Fire Safety grant: Chief Hoyle's application for a \$250k "Fireac" grant for new turn out gear, hose and trench rescue equipment was accepted. Thanks to Chief Hoyle and staff for getting this grant to improve safety equipment for fire fighters at no cost to the town.

The Community Development Block Grant committee had a public hearing on Wednesday where they presented their updated "strategy" for using the grant. The strategy includes a mortgage subsidy program (which has been very successful in the past), improvements to the North Amherst School Building, a child care subsidy, case management for the homeless and help in making the Pomeroy Crossing crosswalks accessible, emergency, fuel assistant, rental assistance and creating emergency shelter.

The online Request/Complaint Tracking system is not working well enough to be useful and will be taken off line until it can be fixed..

Budget Discussion for FY 2010:

Discussion: We will try to finish setting priorities next week. The Select Board should make policy as broad and specific as possible since we will be in this discussion for a while into the future and need to keep our options open

Special Municipal Employee Policy Revision:

Discussion: There is a slight change in the process, eliminating the need to revisit the status each year but allowing it to be revisited any time. The most recent process allowed for a 2 year review, which puts the most current review about now.

Decision: Proposal to accept the policy described by Alisa Brewer, to review Special Municipal Employee Status for a committee only when it is needed. U

Diana Stein moved, Alisa Brewer 2nd. Accepted unanimously with 1 absent

Next meetings:

December 15th

January 5th, 12th, 21st (Wed to consider budget), 26th

February 2nd, 9th, 23rd

March 2nd, 9th, 16th, 23rd

April 6th, 13th, 20th, 27th

December 10th, 7:00 Master Plan Forum w/ Planning Board

Adjourned 9:45

Comments and correction encouraged.

Respectfully submitted;

Aaron Hayden